

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

DATE: Monday, <sup>December</sup> November 14, 2011

CASE NUMBER: C15-2011-0125

☐ Y ☐ Jeff Jack  
☐ Y ☐ Michael Von Ohlen 2<sup>nd</sup> the Motion  
☐ Y ☐ Nora Salinas  
☐ Y ☐ Bryan King  
☐ Y ☐ Susan Morrison  
☐ Y ☐ Melissa Hawthorne Motion to Grant 3 variances  
☐ Y ☐ Heidi Goebel  
☐ - ☐ Cathy French (SRB only)

**APPLICANT: David Cancialosi**

**OWNER: Rachel Nation**

**ADDRESS: 1009 43RD ST**

**VARIANCE REQUESTED:** The applicant has requested a variance to decrease the minimum lot size requirement of Section 25-2-774 (B) from 7,000 square feet to 5,928 square feet in order to remodel an existing building to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan) **DENIED**

The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain a two-family residential use with exterior water heater closet 5.35 from the rear property (10 feet required) in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan) **GRANTED**

The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain a side yard setback of 1 foot (5 feet required) along the west property line in order to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan) **GRANTED**

The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain an exterior water heater enclosure 2.5 feet along the west property line (5 feet required) along the west property line in order to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan) **GRANTED**

The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain exterior stairs and uncovered deck 4.5 feet from the side street property line (15 feet required) in order to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan) **DENIED**

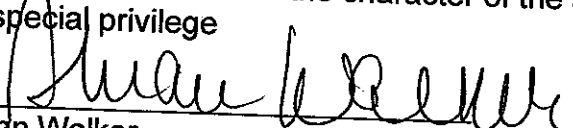
The applicant has requested a variance to decrease the minimum off-street parking requirement of Section 25-6 Appendix A from 3 off-street parking spaces to 0 off-street parking spaces in order to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan) **DENIED**

**BOARD'S DECISION:** The public hearing was closed on Board Member Susan Morrison motion to Postpone to December 12, 2011, Board Member Bryan King second on a 7-0 vote; **POSTPONED TO December 12, 2011.**

**December 12, 2011** The public hearing was closed on Board Member Melissa Hawthorne motion to Grant rear property setback, side yard setback and west property line setback, Board Member Michael Von Ohlen second on a vote; 7-0; Board Member Bryan King motion to Deny lot size, side street property line, off street parking, Board Member Nora Salinas second on a vote; 6-1 (Board member Heidi Goebel nay), **GRANTED 5.35 FT. FROM THE REAR PROPERTY SETBACK, 1 FT. ALONG THE WEST PROPERTY LINE SIDE YARD SETBACK AND 2.5 FT. ALONG THE WEST PROPERTY LINE SETBACK; VOTE 7-0 AND DENIED LOT SIZE, SIDE STREET AND OFF STREET PARKING; VOTE 6-1 (BOARD MEMBER HEIDI GOEBEL NAY).**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: structures have existed in that configuration for 15 years
2. (a) The hardship for which the variance is requested is unique to the property in that: it was permitted use at that time  
  
(b) The hardship is not general to the area in which the property is located because: it was permitted use at the time
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: structures don't alter the character of the area or impair on adjacent use or grant a special privilege

  
Susan Walker  
Executive Liaison

  
Jeff Jack  
Chairman

**Reconsideration Packet: 1009 East 43<sup>rd</sup> Street**

**RECEIVED**  
**DEC 22 2011**

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December 21, 2011

**RE: REQUEST FOR RECONSIDERATION**  
**1009 East 43<sup>rd</sup> Street C15-2011-0125**

**TO: City of Austin Board of Adjustment Commissioners**

Dear Commissioners:

This letter is a formal request for reconsideration of case C15-2011-0125 located at 1009 East 43<sup>rd</sup> Street. This case consisted of six (6) requests. This request for Reconsideration is only applicable to the *minimum lot size* variance request, identified as number six (6) below. The owners are requesting the Board reconsider the lot size variance so they may maintain the use of an established two-family dwelling unit with 25+ years of history. Within this letter and accompanying material the Board will find supporting evidence and reasoning for said request.

The case disposition from December 12, 2011 is as follows:

The Board approved the following Special Exceptions:

1. 5.35' rear setback to maintain accessory structure with attached exterior water heater
2. 2.5' side setback to maintain exterior water heater closet
3. 1.0' side setback to maintain exterior wall (on primary structure)

The Board denied the following Special Exception request:

4. 4.5' Street side setback to maintain exterior stairs and uncovered deck

The Board denied the following variance requests:

5. Parking reduction from 3 to 0 off-street spaces
6. Lot size requirement of 7,000 SF reduced to 5,928 SF to maintain an existing two-family dwelling

#### **I. Interested Parties.**

The Board erred in allowing the testimony of all opposing individuals who spoke at the December 12, 2011 hearing. We fear the Board considered the opposition's unsubstantiated statements when considering the case as a whole and ultimately when motioning to deny the request for reduced lot size in particular.

Despite each of the four (4) individuals who spoke in opposition to said requests identifying themselves as non-Hancock Neighborhood property owners, the Board heard testimony from each individual. These individuals clearly identified themselves as residents of the Allandale and Shoalwood Neighborhoods – neighborhoods that are more than 500 feet from the subject site. Incidentally it should be noted that our position is that any attempt by said opposition to express an "interest" in the site is baseless given the geographic distance between the subject site and neighborhood association boundaries of the opposing parties (see page 2, item C under definition of *Interested Parties*).

Moreover, they made claims that were not, *and are not*, germane to the requests submitted to the Board. Without providing any evidence to the Board, the four (4) opposing individuals:

- erroneously called into question the merits of the case

- made unsubstantiated allegations regarding the structural integrity of pre-existing on-site improvements
- provided no evidence to a claim that over "300" 3-1-1 calls had been made about this property
- clearly stated that their concerns revolved around the use of the property as a "short term rental"
- erroneously referred to the subject site as a "residential hotel"
- could not refute the fact that the two-family unit was established in the mid-1980's
- withheld information regarding their personal interests and actions against the subject site's owners

Their misguided opposition was further evidenced by speculative statements being made with regard to the fear that new short term rentals would appear in their neighborhood(s). These individuals are not legal, interested parties as defined by City code and their statements should not have been acknowledged. What more, this case is not about short term rentals.

#### **Ia. Rules and Procedure.**

In reading the Rules and Procedure for the Board of Adjustment, Article 4(c)(1)(b) Hearings and Decisions, there appears to be more burden placed upon an applicant vs. opposing parties to establish status as an interested party. Article 4(c), Hearings and Decisions, states:

"The chair shall call the applicant, who shall first address standing to appear before the Board by establishing status as:

- (a) the agent or owner for the subject property; or
- (b) an interested party under the notice provision of the Land Development Code

Article 4 continues under subsection (3):

"The chair shall call next those opposed to the applicant's request to present arguments..."

Again, Article 4 places more of a burden on an applicant to establish legal standing than it does for those wishing to speak in opposition to a specific case. This unbalanced burden is further contrasted when compared with the Land Development Code's definition of interested parties as well as the Bylaws of the Board of Adjustment. Please see points below.

#### **Ib. Interested Parties (II).**

The City of Austin Land Development Code in Article 6, Division 1, § 25-1-131, *Interested Parties*, defines Interested Parties as:

- "...a person (who) has an interest if (he or she) communicates an interest in a matter; and...
- a) Occupies a primary residence that is within 500 feet of the site of the proposed development;
  - b) Is the record owner of property within 500 feet of the site of the proposed development;
  - c) Is an officer of an environmental or neighborhood organization that has an interest in the site of the proposed development or whose declared boundaries are within 500 feet of the site of the proposed development;
  - d) Has a utility account address located within 500 feet of the site of the proposed development, as shown in the city utility records on the date of the filing of the application."

While the property owners are appreciative of the setback encroachments approved by the Board, it is our opinion that the opposing party's statements caused further confusion among the Board members, ultimately obfuscating the simple premise of the case:

- the compliance issues in question have been in place for 25+ years
- these issues are a non-issue for 30+ surrounding neighbors
- this is evidenced by letters of support that were included in your packet
- the issues were created by the previous owner
- this was evidenced via written and verbal testimony from the prior owner EC Olle (at the November 14, 2011 hearing)
- the issues were inherited by the current owners – not caused

#### **Ic. Bylaws of the Board of Adjustment.**

Moreover, the Bylaws of the Board of Adjustment and Sign Review Board state in Article 7(J), *Meetings*:

“The board shall allow any citizen to address the board on agenda items, except individual cases under Article 2(A)(1) through (3)...”

The Bylaws in Article 2, *Purpose and Duties*, states:

(A) The purpose of the Board of Adjustment is to:

1. Hear and decide a request for a variance from the requirements of Chapter 25-2 (Zoning), except as otherwise provided by the Code;
2. Hear and decide an appeal of an administrative action under Chapter 25-2 (Zoning)

These cross-referencing sections appear confusing, if not contradictory in nature. When presented to staff, a clear answer was not available as to the codes intent or literal legal application. We believe it is worth discussing in an open forum to clarify exactly who is allowed to address the Board on a given agenda item and to what extent an opposing party's testimony is allowed to be considered by the Board.

#### **II. Lot Size.**

As stated, the owner is requesting Reconsideration of the Board's denial to maintain the pre-existing two-family unit on a lot size of 5,928 SF. As a corner lot that abuts a major commercial development (Hancock Mall), allowing the subject site to maintain the two-family dwelling is unique to the property in that it acts as a compatible land use pattern between intense commercial uses to the south and traditional single family residential uses to the north.

Allowing the owners to maintain the two-family unit fits the City of Austin's model of land use planning that incorporates "...the needs of communities, the economy, and the environment" (per the City of Austin Neighborhood Planning Department *Guide to Land Use Standards*, July 2011, page 4). Per the aforementioned testimony of the prior owner, the two-family unit has existed on-site since the mid-1980's and has continuously fulfilled the need for central yet affordable housing.

At the time the two-family unit was established, the City Zoning Ordinance was codified as Chapter 13-2(a), effective January 1, 1985. The previous owner has testified that to the best of his recollection the conversion from garage to two-family use occurred at the same time an August 1986 permit to re-roof the primary and garage structures was issued (BP-1986-002504). The adoption of Chapter 13-2(a) changed only the name of the existing commercial zoning from General Retail (GR) to Community Commercial (GR).

In 2004 the Hancock Neighborhood Plan down zoned the property from GR to SF-3-CO-NP, yet the two-family use continued in harmony with the primary structure and surrounding neighborhood.

### **III. Case Precedent.**

Since 2010, the Board of Adjustments has approved at least three (3) similar cases: two (2) cases requesting a variance to minimum lot size requirements to either maintain or establish a two-family use and one (1) case requesting a variance to zoning setbacks to create a two-family use.

- **The Board approved 7-0 case C15-2010-0032 to maintain and change the use of a building to create a Secondary Apartment on a 5,040 SF lot at 74 Julius Street (Holly Neighborhood).**
  - The Board motioned to grant the approval on the basis that the reasonable use being the property had “been a 2 family use for number of years”.
  - The hardship was listed as the “single story structure already exists (apparently built in 1932) to make it comply...would be difficult”.
  - This property has no permit history establishing the change of use prior to approval of the variance request for lot size reduction, yet at the December 2011 Hearing Commissioner King stated he felt the issues at the 1009 E. 43<sup>rd</sup> Street location was “self-created by non-permitted work” and thus made a motion to deny that lot size and parking variance.
  - At the December 12 Hearing Legal Counsel interjected and stated that the Board was free to approve Special Exceptions for non-permitted structures and that it was no different in a variance case.
- **The Board approved 6-1 case C15-2010-0081 for the remodel of an existing duplex to create a two (2) story, two-family use and erect a new single family use on a 6,500 SF lot at 2846 San Gabriel Street (West University).**
  - The Board motioned to approve based that the reasonable use being that “...the property had been in a two-family use for over 50 years”.
  - The hardship was that “the two-family structure already exists.”
- **The Board approved 7-0 case C15-2010-0131 to allow a setback reduction to create a two-family use at 5614 Adams Avenue (Brentwood Neighborhood).**
  - The Board motioned to approve based in part that “many homes...have converted their garages to secondary apartments or have separately built secondary apartments to fully maximize the use of the properties.”
  - The stated hardship was “not granting this variance creates a hardship on the current owners because this...conversion happened prior to their acquisition of said property.”
  - This is the exact scenario the owners of 1009 E. 43<sup>rd</sup> St. are facing – an inherited compliance issue.

- We ask the Board to consider why the owners of 1009 E. 43<sup>rd</sup> St. are not afforded the same ability to maximize the use of their property when the conversion of the existing rear unit occurred prior to their acquisition of this property?

#### IV. Compliance.

Since the December 12, 2011 hearing, the City of Austin Arborist and Right-of-Way departments have worked with the owners to administratively correct as many of the remaining issues as possible.

On December 19, 2011 the Arborist Department conditionally approved the implementation of three (3) off-street parking spaces. These spaces will take access from the intersecting street, Bennett Avenue, and will be constructed of a compacted crushed granite base. The conditional approval of the tree permit is included for your review.

On December 21, 2011 the owner submitted a permit application to demolish the original, existing exterior stairs and deck that encroach into the street-side setback. As of the date of this letter, that permit is in review however we expect to have it approved in due time. The owner intends to replace the stairs with new stairs which will be compliant with relative zoning setbacks.

Addressing the non-compliance issues and accomplishing these tasks has been no small feat. The owners of 1009 E. 43<sup>rd</sup> Street have been arbitrarily and unnecessarily targeted by citizens, the media, and City Code Compliance for over two (2) years. At every step of the way they have responded with reason and understanding. They inherited the non-compliance issues yet have worked to resolve them as diligently as possible. By denying the lot size variance request, the Board effectively removes what should be, for all intensive purposes, a grandfathered two-family dwelling unit. The Board has recently approved very similar, if not exact, requests that had less neighbor support *combined*.

Complying with current parking standards will result in a dramatic change to the aesthetic character of the property - a character that has been in place for 25+ years. A character that 30+ surrounding neighbors of the subject site have submitted letters of support that are a testament not only to the non-intrusive nature of the property, but also the integrity of the owners themselves. However, the owners hope this demonstrates their dedication to comply with all applicable City of Austin codes and regulations - and in the end hope the Board demonstrates sound, fair application of their authority to allow the continued two-family use.

The slanderous nature of the remarks made by the opposing parties at the December 2011 Hearing are clearly outweighed by the subject site owners' commitment to reconcile the non-compliance issues which they *inherited*.

We ask the Board to reconsider its denial of request for the reduction of the standard 7,000 SF lot size in order to allow a long standing, two-family use continue to serve as affordable housing, to continue adding to central Austin's density, to continue promoting less automotive traffic and more bicycle and pedestrian modes of travel, and continue in similar aesthetic character found on dozens of similar properties with accessory uses found throughout the central Austin area.

City of Austin Board of Adjustment request for Reconsideration: 1009 East 43<sup>rd</sup> Street  
December 21, 2011

There is no request or intention to expand the two-family dwelling unit. We ask the Board to apply fair and consistent application of their authority as codified in Board Rules and Procedures, the Land development Code, and the Board Bylaws.

Thank you for your thoughtful Reconsideration of this issue.

Sincerely,

David C. Cancialosi, Agent for property owners

Cc: Rachel nation, property owner  
Nick Buddo, property owner  
Susan Walker, City of Austin  
Diana Ramirez, City of Austin

1933

Cottage Built. Deed records: "A dwelling may include a duplex house with facilities for two white families or a house with a garage apartment for dwelling."

1942

Purchased by EC Olle, Sr.  
Survey shows garage in same location as exists today.

1985

January 1985, zoning ordinance 13-2(A) changed the GR zoning category from General Retail to Community Commercial. Site remains GR.

1986

PERMIT 1986-002504 BP is pulled by EC Olle, Jr's carpenter to finish out the attic of the main Cottage and re-roof and gable the garage apartment. Nurse lives upstairs for his father's alzheimers and son lives in the rear while attending UT.

2001

CODE COMPLAINT call about upstairs apartment and stairs (IT-01-008036).

2004

Hancock Neighborhood plan changes property from GR, Community Commercial, to :

2007

★ Cottage purchased by current owners, mortgage, survey, & appraisal paperwork document apartments existence. Inherited problem property by no fault of their

May Mayor approves Amnesty Ordinance for zoning, code, setback violations  
July Allandale posts notes on neighbors doors

September Multi-month lease: UT guest professor renter evicted

October Life / safety inspection performed and approved # 2011-097737  
Fire Marshall passes safety inspection on property

December Arborist review approved for parking for 3 cars # 2011-112756  
Partial demo permit approved for partial stair demo # 2011-114433PF

**RULES OF PROCEDURE  
FOR THE  
BOARD OF ADJUSTMENT AND SIGN REVIEW BOARD**

**ARTICLE 1. GENERAL PROCEDURES.**

**(A) Refusal Required.**

No appeal shall be taken until and unless the responsible city official has first determined that a permit requires a variance or has rendered an interpretation of the regulations in question.

**(B) Application Requirements.**

All appeals shall be filed on an application form provided by the staff liaison and shall be complete in all respects before being accepted for filing. The Board shall not act upon an application that is either substantially nonconforming or incomplete.

**(C) Standing.**

- (1) Appeals to the Board of Adjustment may be filed by the agent or owner of property subject to Chapter 25-2 or by any person aggrieved, or by any City officer, department, board (excluding the Board of Adjustment) or commission affected by a decision of the responsible city official.
- (2) Appeals to the Sign Review Board may be filed by the agent or owner of property subject to the City's sign regulations, or by a person aggrieved by a decision of the responsible city official under the sign regulations.
- (3) Appeals to the Board of Adjustment of the City's airport zoning regulations may be filed by the agent or owner of any property subject to the airport zoning regulations.
- (4) Appeals filed by the owner of property that is the subject the action in question shall be signed by the property owner or the owner's agent. If an agent signs the application, the agent shall indicate the name of the owner and in what capacity the agent serves and submit evidence sufficient to establish authority to act for the owner.
- (5) The burden of proof is on the applicant to demonstrate standing by clear and convincing evidence. If the Board, on hearing the evidence regarding the applicant's standing, dismisses the appeal for lack of standing, the Board's action shall constitute a final order disposing of the appeal.

**(D) Time For Filing Application.**

An application appealing an interpretation review shall be filed by the time required by the Land Development Code. An application requesting a variance may be filed at any time, except as provided in Section (H)(1).



(E) Notice.

- (1) Notice shall be as required by the Land Development Code. The required sign(s) indicating a request for variance, appeal of an interpretation, or another action of the Board must be posted on the subject property no less than ten (10) days prior to and including the public hearing date. If the subject property is adjacent to more than one public street, a sign shall be posted facing each street.
- (2) In accordance with the Land Development Code, the postponement or continuation of a public hearing does not require additional notice if such postponement or continuance is to a specific date and time no later than 60 days from the date of the hearing for which notice was given.
- (3) An applicant's failure to maintain a sign in accordance with this rule may result in a postponement of the consideration of the request at a public hearing until this rule has been complied with.

(F) Submission of Evidence.

Evidence supporting a request for variance or an appeal shall be submitted only through the staff liaison or to the Board in a public meeting.

(G) Withdrawal of Appeal.

An applicant may withdraw an appeal by filing written notice with the staff liaison. An applicant granted a variance may withdraw the appeal and the withdrawal shall have the same effect as a denial as of the date of withdrawal. The staff liaison shall announce at the Board meeting the withdrawal of any appeals if the withdrawal is filed after public notice has been made.

(H) Limitations on Variances and Appeals.

- (1) After denial of a variance, an application for the same or substantially same variance on the same or substantially same site shall not be filed within one year.
- (2) The Board shall not hear appeals concerning notice or procedure requirements of the Land Development Code, or matters in which jurisdiction is vested in another municipal board or commission.

**ARTICLE 2. SUBSTANTIVE REQUIREMENTS FOR INTERPRETATION APPEALS.**

(A) Basis for Filing.

An appeal for interpretation of the regulations may be filed when error is alleged in an order, requirement, decision, determination, or application by the responsible city official of the substantive requirements of Chapter 25-2.

(B) Evidentiary Requirements.

An interpretation appeal application shall include:

- (1) a statement describing the way the applicant alleges the regulations should be interpreted or applied, together with diagrams and charts illustrating the proper interpretation or application of the regulations; and
- (2) the responsible city official's statement of the interpretation or application of the regulations.

(C) Basis for Decision.

Before deciding an interpretation appeal, the Board shall consider:

- (1) the facts and statements in the application;
- (2) the testimony and other evidence presented at the public hearing;
- (3) the responsible city official's technical report on the appeal; and
- (4) the Board's consideration and evaluation of the language of the regulations and of related ordinances bearing thereon.

(D) Findings.

The Board shall make such interpretation as ought to be made. The Board may grant an appeal if it makes all of the following findings.

- (1) There is reasonable doubt or difference of interpretation as to the specific intent of the regulations.
- (2) The resulting interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated.
- (3) When use provisions are being appealed, granting the appeal would clearly permit a use in character with the uses enumerated for the various districts and with the objective of the district in question.

**ARTICLE 3. SUBSTANTIVE REQUIREMENTS FOR VARIANCES.**

(A) Information Required.

- (1) An application for a variance shall contain information addressing each of the factual elements upon which the Board must base the required findings.
- (2) When an appeal is submitted for variance from setback, side or rear yard requirements, the applicant shall provide the same information for properties adjoining the common lot line as may be applicable to the appealed requirements.

(B) Findings for General Zoning Variances.

(1) Basic Findings.

The Board may grant a variance if it makes all of the following findings.

- (a) The zoning regulations applicable to the property do not allow for a reasonable use.
- (b) The hardship for which the variance is requested is unique to the property and not general to the area in which the property is located.
- (c) The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of regulations to the zoning district in which the property is located.

(2) Additional Findings for Parking Variances.

If the requested variance involves a regulation addressing loading facility or off-street parking requirements, the Board must make all of the following findings in addition to the basic findings.

- (a) Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.
  - (b) Granting the variance will not result in the parking or loading of vehicles on public streets in a manner that interferes with the free flow of traffic on the streets.
  - (c) Granting the variance will not create a safety hazard or any other condition inconsistent with the objective of the regulations.
- (3) A variance granted under Subsection (2) applies only to the use for which the variance was granted and does not run with the land on which the use is located.

(C) Findings For Sign Variances by Sign Review Board.

The Sign Review Board may grant a variance from the sign regulations of Chapter 25-10 if it finds that granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated; and

- (1) the variance is necessary because strict enforcement of the provisions of the sign regulations prohibit any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site, such as its dimensions, landscaping or topography; or
- (2) granting the variance will not have a substantially adverse impact upon neighboring properties; or
- (3) granting the variance will not substantially conflict with the stated purposes of the sign regulations.

(D) Findings for Airport Zoning Variances.

The Board shall allow a variance from an airport zoning regulation if it finds that:

- (1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and
- (2) the granting of the relief would:
  - (a) result in substantial justice being done;
  - (b) not be contrary to the public interest; and
  - (c) be in accordance with the spirit of the regulation and Chapter 241, Local Government Code.

(E) Conditions on Variances.

The Board may impose any reasonable condition on any variance that it considers necessary to accomplish the purposes of the applicable regulations and state law.

**ARTICLE 4. HEARINGS AND DECISIONS**

(A) Applicant.

The applicant may appear in person or be represented by counsel or an agent.

(B) Order of Business.

- (1) When matters are scheduled to be heard by the Sign Review Board and the Board of Adjustment at the same time, the Sign Review Board matters will be heard prior to the Board of Adjustment matters.
- (2) After the chair calls the meeting to order, the staff liaison shall call each matter in the order filed and shall announce the case number, the name of the applicant, and the location of the property. The staff liaison shall describe the nature of the case and advise the Board of any communications received. The chair shall administer an oath to all persons providing testimony or other evidence.

(C) Procedure for Hearing.

- (1) The chair shall call the applicant, who shall first address standing to appear before the Board by establishing status as:
  - (a) the agent or owner for the subject property; or
  - (b) an interested party under the notice provisions of the Land Development Code.

- (2) The applicant shall then present arguments. The chair shall then inquire if there are others affected who support the appeal, who may then speak, within the remaining time allotted.
- (3) The chair shall call next those opposed to the applicant's request to present arguments. The chair shall then call the applicant to rebut arguments presented by opposition. Following rebuttal, the chair shall order the hearing closed.
- (4) Each side shall proceed without interruption by the other and all arguments and pleadings shall be addressed to the Board. No argument between applicant and opponents is permitted. the chair may allow limited cross-examination between applicant and opponents.
- (5) The Board may continue a hearing on any matter for which the applicant fails to appear, unless the applicant has requested that the Board act without the applicant's being present.
- (6) The Board may dismiss any matter in which the applicant has failed to appear without cause for two meetings at which the appeal was set, provided the Board shall hear those persons appearing in response to the notice of hearing.

(7) Time Limits for Presentations.

(a) Variances.

Presentations on behalf of an application for a variance shall be limited to a total of five minutes. Presentations on behalf of opponents shall be limited to a total of five minutes. The applicant shall have a total of two minutes to rebut the arguments of the opponents.

(b) Interpretations.

Presentations on behalf of an application for interpretation shall be limited to a total of ten minutes. Presentations on behalf of opponents shall be limited to a total of ten minutes. The applicant shall have a total of four minutes to rebut the arguments of the opponents.

(c) Increase of Time Limits.

By majority vote of the Board or ruling of the chair, time limits may be equitably extended. After the public hearing is closed, no further public comment shall be accepted unless requested by the Chair.

(D) Board Deliberation.

After closing the public hearing, the chair shall direct any question to the applicant or any person speaking to bring out all relevant facts, circumstances and conditions affecting the matter and then call for questions from other Board members or the responsible city official. During its deliberation, the Board may call on any party to the proceeding for further questioning.

(E) Disposition.

The Board may grant, modify, or deny an appeal or request. The Board may defer action on an appeal if it concludes that additional evidence is needed, alternate solutions need further

examination, or evidence presented at the hearing needs further examination. The Board may dismiss or postpone a matter if the Board finds that it was improperly filed.

(F) Vote Required.

- (1) If a motion in favor of an applicant fails to receive the minimum number of affirmative votes, it shall be regarded as a vote to deny.
- (2) If a member is absent and the vote of that member added to the number voting for the applicant would equal the minimum number of affirmative votes, the motion shall be regarded as a vote to continue consideration to the next meeting.
- (3) If a motion to deny an appeal to the Board of Adjustment receives at least two affirmative votes, it shall be regarded as a vote to deny. If a motion to deny an appeal to the Sign Review Board receives at least five affirmative votes, it shall be regarded as a vote to deny.

(G) Reconsideration.

- (1) A matter on which the Board has acted may be reconsidered once by the Board. A request to reconsider may be filed by any person having original standing. Requests for reconsideration shall be filed in writing with the staff liaison within 10 days after the Board's decision.
- (2) A request to reconsider shall state clearly how the Board erred in its determination, why the action should be reconsidered, and be supported by new or clarified evidence.
- (3) When a request to reconsider has been properly filed, the staff liaison shall place the matter on the agenda of the next regular meeting. The Board shall review the request and shall, on the basis of the written material submitted by the applicant in support of the request, determine whether to reconsider the matter because of an error in its original determination or on the basis of new evidence not presented to the Board at the original hearing that might affect its determination. The affirmative vote of four members of the Board shall be necessary to reconsider a matter, which shall then be heard immediately following the Board's decision to reconsider. Failure of a motion to reconsider shall constitute final action on the matter.

**ARTICLE 5. EX PARTE INFORMATION;  
COMPELLING ATTENDANCE OF WITNESSES**

- (A) Members shall not individually investigate cases before the Board, other than routine site visits.
- (B) A member that receives material information regarding a case that is not made available to other Board members is disqualified from participating in the case unless the member publicly discloses the information and its source at the earliest reasonable opportunity.
- (C) A member may disqualify himself or herself if an applicant, interested party, or agent has sought to influence the member's vote other than in the public hearing.
- (D) The chair may compel the attendance of witnesses at public hearings of the Board.

## **Title 25 LAND DEVELOPMENT**

### **ARTICLE 6. INTERESTED PARTIES, NOTICE, AND PUBLIC HEARING PROCEDURES.**

#### ***Division 1. Interested Parties and Notice.***

##### **§ 25-1-131 INTERESTED PARTIES.**

(A) An interested party is a person who has an interest in a matter that is the subject of a public hearing or administrative decision. **A person has an interest if the person:**

- (1) is the applicant or the record owner of property that is the subject of a public hearing or administrative decision; or
- (2) communicates an interest in a matter; and
  - (a) occupies a primary residence that is within 500 feet of the site of the proposed development;
  - (b) is the record owner of property within 500 feet of the site of the proposed development;
  - (c) is an officer of an environmental or neighborhood organization that has an interest in the site of the proposed development or whose declared boundaries are within 500 feet of the site of the proposed development; or
  - (d) has a utility account address located within 500 feet of the site of the proposed development, as shown in the City utility records on the date of the filing of the application.

## **CHAPTER 25-2. ZONING**

### **Chapter 25-2, Zoning**

#### **Subchapter A. Zoning Uses, Districts, and Map**

### **ARTICLE 1. ZONING USES**

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**BYLAWS OF THE  
BOARD OF ADJUSTMENT  
AND  
SIGN REVIEW BOARD**

**ARTICLE 1. NAME.**

The name of the board is the Board of Adjustment. Under Section 2-1-181 (*Sign Review Board*) of the City Code, the members of the Board of Adjustment and two additional persons appointed by council are the Sign Review Board.

**ARTICLE 2. PURPOSE AND DUTIES.**

[ (A) The purpose of the Board of Adjustment is to:

- (1) hear and decide a request for a variance from the requirements of Chapter 25-2 (*Zoning*), except as otherwise provided by the Code;
- (2) hear and decide an appeal of an administrative action under Chapter 25-2 (*Zoning*);
- (3) hear and decide on a request for a variance from the requirements of airport zoning regulations under Section 241.034, Local Government Code; and
- (4) perform other duties prescribed by ordinance or state law.

(B) The purpose of the Sign Review Board is to:

- (1) hear and decide a request for variance from the requirements of Chapter 25-10 (*Sign Regulations*);
- (2) exercise the powers to revoke or suspend a sign registration under Section 25-10-236 (*Revocation and Suspension*); and
- (3) advise the Council regarding Chapter 25-10 (*Sign Regulations*).

**ARTICLE 3. MEMBERSHIP.**

(A) The Board of Adjustment is composed of seven members appointed by the city council. The council may appoint any number of alternate members to serve in the absence of a regular member.

(B) The Sign Review Board is composed of nine members. The members and alternates of the Board of Adjustment shall serve as seven members of the Sign Review Board. Two additional members shall be appointed by the council under Section 2-1-181(A)(2) (*Sign Review Board*).



1 (C) A member that was appointed to the Sign Review Board serves at the pleasure of the city council. A  
2 member that was appointed to the Board of Adjustment may be removed by the council for cause  
3 on a written charge after a public hearing.  
4

5 (D) Board members serve for a term of two years beginning August 1<sup>st</sup> on the year of appointment. A  
6 vacancy on the Board of Adjustment shall be filled for the unexpired term.  
7

8 (E) An individual board member may not act in an official capacity except through the action of the  
9 board.  
10

11 (F) A regular board member who is absent for three consecutive regular meetings or one-third of all  
12 regular meetings in a "rolling" twelve month timeframe automatically vacates the member's  
13 position subject to the holdover provisions in Section 2-1-27 of the City Code, if the member was  
14 appointed to the Sign Review Board, and is subject to removal for cause if the member was  
15 appointed to the Board of Adjustment. This does not apply to an absence due to illness or injury of  
16 the board member, an illness or injury of a board member's immediate family member, or the birth  
17 or adoption of the board member's child for 90 days after the event. The board member must notify  
18 the staff liaison of the reason for the absence not later than the date of the next regular meeting of  
19 the board. Failure to notify the liaison before the next regular meeting of the board will result in an  
20 unexcused absence.  
21

22 (G) At each meeting, each board member shall sign an attendance sheet which indicates that the  
23 member does not have a conflict of interest with any item on that agenda, or identifies each agenda  
24 item on which the member has a conflict of interest. Failure to sign the sheet results in the member  
25 being counted as absent and his/her votes are not counted.  
26

27 (H) A member who seeks to resign from the board shall submit a written resignation to the chair of the  
28 board, the staff liaison, or the city clerk's office. If possible, the resignation should allow for a  
29 thirty day notice so the city council can appoint a replacement.  
30

#### 31 ARTICLE 4. OFFICERS. 32

33 (A) The officers of the board shall consist of a chair and a vice-chair.  
34

35 (B) Officers shall be elected annually by a majority vote of the board at the first regular meeting after  
36 October 1<sup>st</sup>. In the event a current officer becomes ineligible to serve as an officer, the board may  
37 hold an emergency election as needed.  
38

39 (C) The term of office shall be one year, beginning November 1<sup>st</sup> and ending October 31<sup>st</sup>. An officer  
40 may continue to serve until a successor is elected. A person may not serve as an officer in a  
41 designated position of a board for more than three consecutive one-year terms. A person who has  
42 served as an officer in a designated position of a board for three consecutive terms is not eligible for  
43 re-election to that designated office until the expiration of two years after the last date of the  
44 person's service in that office. The board may override the term limit provision for an officer by an  
45 affirmative vote of two-thirds of the authorized board members.  
46

47 (D) A member may not hold more than one office at a time.  
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## ARTICLE 5. DUTIES OF OFFICERS.

- (A) The chair shall preside at board meetings, appoint all committees, and represent the board at ceremonial functions and approve each final meeting agenda.
- (B) In the absence of the chair, the vice-chair shall perform all duties of the chair.

## ARTICLE 6. AGENDAS.

- (A) Two or more board members may place an item on the agenda by oral or written request to the staff liaison at least five days before the meeting. After first consulting with and receiving input from the staff liaison, the chair shall approve each final meeting agenda.
- (B) The board liaison shall submit the meeting agenda through the online agenda posting system for each meeting not less than 72 hours before the meeting.
- (C) Posting of the agenda must comply with Texas Government Code Chapter 551 (Texas Open Meetings Act).

## [ ARTICLE 7. MEETINGS.

- (A) The board meetings shall comply with Texas Government Code Chapter 551 (Texas Open Meetings Act).
- (B) Board meetings shall be governed by Robert's Rules of Order.
- (C) The board may not conduct a closed meeting without the approval of the city attorney.
- (D) The board shall meet monthly. In November of each year, the board shall adopt a schedule of the meetings for the upcoming year, including makeup meeting dates for the holidays and cancelled meetings.
- (E) The chair may call a special meeting, and the chair shall call a special meeting if requested by three or more members. The call shall state the purpose of the meeting. A board may not call a meeting in addition to its regular scheduled meetings as identified in its adopted meeting schedule, more often than once a quarter, unless the meeting is required to comply with a statutory deadline or a deadline established by Council.
- (F) Six members constitute a quorum of the Board of Adjustment for purposes of hearing and deciding on appeals and requests for variances under Article 2, Section (A). Otherwise, a majority of the maximum number of regular members under Article 3 constitutes a quorum.
- (G) If a quorum for a meeting does not convene within one-half hour of the posted time for the meeting, then the meeting may not be held.
- (H) The affirmative vote of six members of the Board of Adjustment is required to grant an appeal or variance. The affirmative vote of six members of the Sign Review Board is required to suspend or

1 revoke a registration. Otherwise, to be effective, a board action must be adopted by affirmative vote  
2 of not less than a majority of the maximum number of regular members under Article 3.  
3

4 (I) The chair has the same voting privilege as any other member.  
5

6 (J) The board shall allow any citizen to address the board on agenda items, except individual cases  
7 under Article 2(A)(1) through (3) and (B)(1) and (2). If a citizen requests in writing that a matter  
8 within the scope of the board's responsibilities other than a case under Article 2(A)(1) through (3)  
9 and (B)(1) and (2), the staff liaison shall place the matter on the agenda within a reasonable time.  
10 The chair may limit a speaker to three minutes.  
11

12 (K) The staff liaison shall prepare the board minutes. The minutes of each board meeting must include  
13 the vote of each member on each item before the board and indicate whether a member is absent or  
14 failed to vote on an item.  
15

16 (L) The city clerk shall retain agendas, approved minutes, internal review reports and bylaws. The  
17 Planning and Development Review Department shall retain all official board documents. The  
18 documents are public records under Texas Local Government Code Chapter 552 (Texas Public  
19 Information Act).  
20

21 (M) The chair shall adjourn a meeting not later than 10 p.m., unless the board votes to continue the  
22 meeting.  
23

24 (N) Each person and board member attending a board meeting should observe decorum pursuant to  
25 Section 2-1-48 of the City Code.  
26

## 27 **ARTICLE 8. COMMITTEES/WORKING GROUPS.**

### 28 **COMMITTEES**

29 (A) The Board of Adjustment and Sign Review Board will have no committees.  
30

31 (B) Each committee must be established by an affirmative vote of the board. A committee cannot meet  
32 until its creation is approved by the Council Audit and Finance Committee. Each committee shall  
33 consist of at least three board members appointed by the chair. A staff member shall be assigned to  
34 each committee by the director of the Planning and Development Review Department.  
35

36 (C) The board chair shall appoint a board member as the committee chair, with the member's consent.  
37

38 (D) A majority of the total number of appointed committee members constitutes a quorum.  
39

40 (E) Each committee shall meet on a regularly scheduled basis at least quarterly.  
41

42 (F) Each committee shall make an annual report to the board at the January board meeting.  
43

44 (G) Committee meetings must be posted in accordance with Texas Government Code Chapter 551  
45 (Texas Open Meetings Act).  
46  
47  
48

- 1 (H) At each committee meeting, a committee member shall sign in on a sheet provided and shall  
2 indicate that the member has no conflict of interest with any item on the committee meeting agenda,  
3 or identify each agenda item on which the member has a conflict of interest.  
4

5 WORKING GROUPS  
6

- 7 (A) The board can determine the size of a working group but the number of board members serving on  
8 the working group must be less than a quorum of the board.  
9  
10 (B) A working group may designate a chair, with the member's consent, but is not required to do so.  
11  
12 (C) Quorum requirements do not apply to working groups.  
13  
14 (D) Staff support will not be provided for working groups.  
15  
16 (E) Working groups are not required to post their meetings in accordance with the Texas Government  
17 Code Chapter 551 (Texas Open Meetings Act).  
18

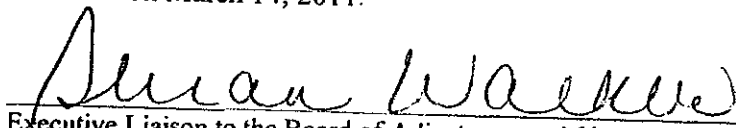
19 **ARTICLE 9. PARLIAMENTARY AUTHORITY.**  
20

- 21 (A) Except as otherwise provided in this article, the rules contained in the current edition of Robert's  
22 Rules of Order shall govern the board in all cases to which they are applicable, except when  
23 inconsistent with these bylaws or with special rules of order which the board or city council may  
24 adopt.  
25  
26 (B) The Rules of Procedure for the Board of Adjustment and Sign Review Board shall not be subject to  
27 a motion to suspend the rules under §25 of Robert's Rules of Order.  
28  
29 (C) A matter that the board has reconsidered under Article 4(G) of the Rules of Procedure for the Board  
30 of Adjustment and Sign Review Board is not subject to a motion to rescind or amend under §35 of  
31 Robert's Rules of Order.  
32

33 **ARTICLE 10. AMENDMENT OF BYLAWS.**  
34

35 A bylaw amendment is not effective unless approved by the Council Audit and Finance Committee.  
36  
37

38 The bylaws were approved by the Board of Adjustment and Sign Review Board at their meeting  
39 held on March 14, 2011.  
40

41   
42 \_\_\_\_\_  
43 Executive Liaison to the Board of Adjustment and Sign Review Board

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE:** Monday, June 14, 2010

**CASE NUMBER:** C15-2010-0032

☐ Y ☐ Jeff Jack  
☐ Y ☐ Michael Von Ohlen  
☐ Y ☐ Nora Salinas  
☐ Y ☐ Bryan King **Motion to Grant**  
☐ Y ☐ Leane Heldenfels, Chairman  
☐ Y ☐ Clarke Hammond, Vice Chairman  
☐ Y ☐ Heidi Goebel **2<sup>nd</sup> Motion**

**APPLICANT:** Akash Sharma

**ADDRESS:** 74 JULIUS ST

**VARIANCE REQUESTED:** The applicant has requested a variance to decrease the minimum lot size requirement of Section 25-2-1462 from 5,750 square feet to 5,040 square feet in order to maintain and change the use of an existing building to create a Secondary Apartment use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Holly Neighborhood Plan)

The applicant has requested a variance to decrease the minimum front street setback requirement of Section 25-2-492 (D) from 25 feet to 21 feet in order to maintain the existing single-family residence and to change the use of an existing building to create a Secondary Apartment use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Holly Neighborhood Plan)

The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492 (D) from 5 feet to 3.1 feet in order to maintain and change the use of an existing building to create a Secondary Apartment use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Holly Neighborhood Plan)

The applicant has requested a variance to decrease the minimum through lot setback requirement of Section 25-2-515 from 25 feet to 13.1 (along Pedernales Street) feet in order to maintain and change the use of an existing building to create a Secondary Apartment use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Holly Neighborhood Plan)

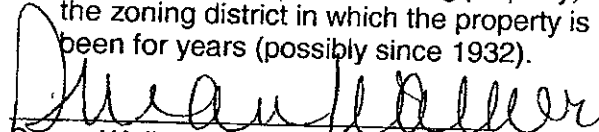
**BOARD'S DECISION** The public hearing was closed on Board Member Bryan King motion to Grant with conditions to limit 675 square feet on rear property and ingress/egress take off Pedernales Street, Board Member Heidi Goebel second on a 7-0 vote; **GRANTED.**


**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: preexisting property has been a 2 family use for number of years developed in 1972
2. (a) The hardship for which the variance is requested is unique to the property in that: single story structure already exists (apparently built in 1932) to make it comply with side setback requirements would be difficult

(b) The hardship is not general to the area in which the property is located because: no other property with a secondary apartment in the vicinity

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: the structure in question has been for years (possibly since 1932).

  
Susan Walker  
Executive Liaison

  
Leane Heldenfels  
Chairman

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE:** Monday, September 13, 2010

**CASE NUMBER:** C15-2010-0081

☐ Y ☐ Jeff Jack  
☐ Y ☐ Michael Von Ohlen **Motion to GRANT**  
☐ Y ☐ Melissa Hawthorne  
☐ N ☐ Bryan King  
☐ Y ☐ Leane Heldenfels, Chairman  
☐ Y ☐ Clarke Hammond, Vice Chairman **2<sup>nd</sup> the Motion**  
☐ Y ☐ Heidi Goebel

**APPLICANT:** Joshua L., Rash

**ADDRESS:** 2846 SAN GABRIEL ST

**VARIANCE REQUESTED:** The applicant have requested a variance to decrease the minimum lot size requirement of Section 25-2-774 (B) from 7,000 square feet to 6,500 square feet (existing) in order to remodel an existing duplex residential use to create a two-family residential unit and erect a single family residence on a lot in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (West University Neighborhood Plan)

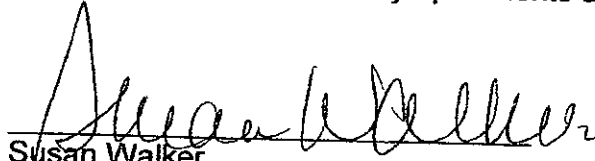
**BOARD'S DECISION:** The public hearing was closed on Board Member Michael Von Ohlen motion to GRANT with conditions that secondary floor is used for habitable space and ground floor garage is used as storage space, Board Member Clarke Hammond second on a 6-1 vote (Board Member Bryan King nay); GRANTED.


**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: preexisting property which is developed in 1945 has been in a two family use for over fifty years, due to lot configuration and placement of the current structure, a reasonable use for the lot is to expand by erecting a single family residence in the front while preserving the current structure in the rear
2. (a) The hardship for which the variance is requested is unique to the property in that: the two family structure already exists and its placement in relation to lot configuration limits expansion; because of the established trees to the south and east, expansion in those directions is not possible without having to tear out multiple trees, expansion to the west and north is prohibited because of the alley and setback requirements, due to lot configuration and physical constraints the only way to expand is to construct a separate structure on the front of the lot  
  
(b) The hardship is not general to the area in which the property is located because:

There are no other properties in the area that have an established preexisting two family structure in the rear of the lot with a large empty undeveloped portion in the front

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: since the preexisting structure has been in existence since 1945 and the use has been established as two family for over 50yrs. The neighborhood is comprised of large multi-family structures and commercial buildings and single family residences, many with detached secondary apartments and structures in the rear

  
Susan Walker  
Executive Liaison

  
Leane Heldenfels  
Chairman



**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE:** Monday, November 8, 2010

**CASE NUMBER:** C15-2010-0131

☒ Y Jeff Jack  
☒ Y Michael Von Ohlen **Motion to GRANT**  
☒ Y Nora Salinas **2<sup>nd</sup> the Motion**  
☒ Y Bryan King  
☒ Y Leane Heldenfels, Chairman  
☒ Y Clarke Hammond, Vice Chairman  
☒ Y Heidi Goebel

**APPLICANT:** Sam, Shore

**ADDRESS:** 5614 ADAMS AVE

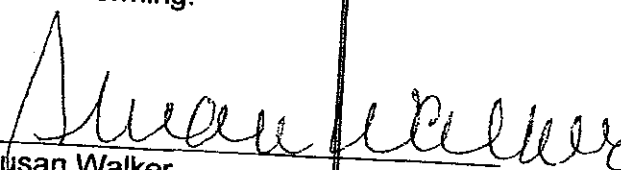
**VARIANCE REQUESTED:** The applicant has requested a variance to decrease the minimum side yard setback requirement of Section 25-2-492 (D) from 5 feet to 2.8 feet (existing) in order to remodel and change the use of an existing accessory structure to create a Secondary Apartment use in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Brentwood Neighborhood Plan)


**BOARD'S DECISION:** The public hearing was closed on Michael Von Ohlen motion to Grant, Board Member Nora Salinas second on a 7-0 vote; GRANTED.

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: not only is the use of a secondary apartment allowed per LDC in an SF-3 zoning district, the adopted Brentwood Neigh Plan allows for such a use and encourages it, many homes along Adams Avenue have converted their garages to secondary apartment or have separately built secondary apartments to fully maximize the use of the properties
2. (a) The hardship for which the variance is requested is unique to the property in that: not granting this variance creates a hardship on the current property owners because this garage to secondary apartment conversion happened prior to their acquisition of said property  
(b) The hardship is not general to the area in which the property is located because: hardships, as listed above are not general to where the property is located in the city but to any property in which previous owner did not obtain proper City approvals and permits
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of

the regulations of the zoning district in which the property is located because: the approval of this variance will in no way alter the character or impair the use of adjacent conforming properties, and will make the current non-conforming property conforming.

  
Susan Walker  
Executive Liaison

  
Leane Heldenfels  
Chairman



\*Please call applicant prior to site visit

## Tree Ordinance Review Application

Planning and Development Review Department

One Texas Center, 505 Barton Springs Road, 4th floor, Austin, TX 78704

Phone: (512) 974-1876 Fax: (512) 974-3010

Email: Michael.Embese@ci.austin.tx.us Website: www.ci.austin.tx.us/trees

ROW I.D. 10693774

Mapscop Pg# 5554

Application request\* (specify all that apply):

☐ Tree removal

☒ Development exceeding allowable standards for encroachment in the tree's critical root zone;

☐ Removal of more than 30% of a tree's crown.

\* Refer to Land Development Code 25-8 (B)(1) and Environmental Criteria Manual (Section 3, App. F). Applicant understands that all impacts may threaten the health of the tree and that approval of this application does not guarantee favorable tree results.

Address and zip code of property: 1009 E 43 ST 78751

Name of owner or authorized agent: NICK RUDDO

Building permit number (if applicable): \_\_\_\_\_

Telephone #: 512 297 3945 Fax #: \_\_\_\_\_

E-mail: Rachel @ Rachel Nation . Com

Tree Species: LIVE OAK

Tree location on lot: BACK YARD

Trunk size (in inches) at 4 1/2 feet above ground: circumference (around) \_\_\_\_\_ or diameter (across) 30"

General tree condition: ☒ Good / ☐ Fair / ☐ Poor / ☐ Dead

Reason for request: PARKING ISSUES

Nick Ruddo

15 - DECEMBER 2011

Owner/ Authorized Agent Signature

Date

- Proposed development projects should include an aerial drawing that includes the location of the tree and planned improvements (e.g. structure, driveway, utility and irrigation lines).
- This application is reviewed for tree impacts only; not for zoning or other applicable regulations. Payment (\$25 check to the City of Austin) must be made prior to City personnel completing this application. No fee is required for dead or diseased trees.

### Application Determination - To be completed by City Arborist Program Personnel

☐ Approved ☒ \*Approved With Conditions ☐ Denied ☐ Statutory Denial (more information required)

Comments The driveway is to be crushed granite with no more than 4" of excavation for installation within 15 feet of the tree. No excavation allowed within 7.5 feet.

☒ Heritage Tree(s)

☐ A heritage tree variance is required: ☐ Administrative / ☐ Land Use Commission

Conditions of Approval: ☐ None or ☒ As described within Arborist Comments (see above); and

☐ Applicant agrees to plant \_\_\_\_\_ caliper inches of container grown City of Austin Appendix F trees on the lot prior to obtaining a final inspection (if applicable). Trees are to have a minimum 2-inch trunk diameter. Examples include Oaks, Cedar Elm, Bald Cypress, Desert Willow, Mountain Laurel, Texas Persimmon, Mexican Plum, etc.

☐ Prior to development, applicant agrees to supply a root zone mulch layer and maintain tree protection fencing (chain-link, five-foot in height) throughout the project duration. (ECM 3.5.2)

☐ Provide a receipt for remedial tree care and / or any required pruning as performed by a certified arborist.

☒ No impacts are permitted within the tree 1/2 Critical Root Zone (ECM 3.5.2), including trenching for utilities.

Applicant Signature

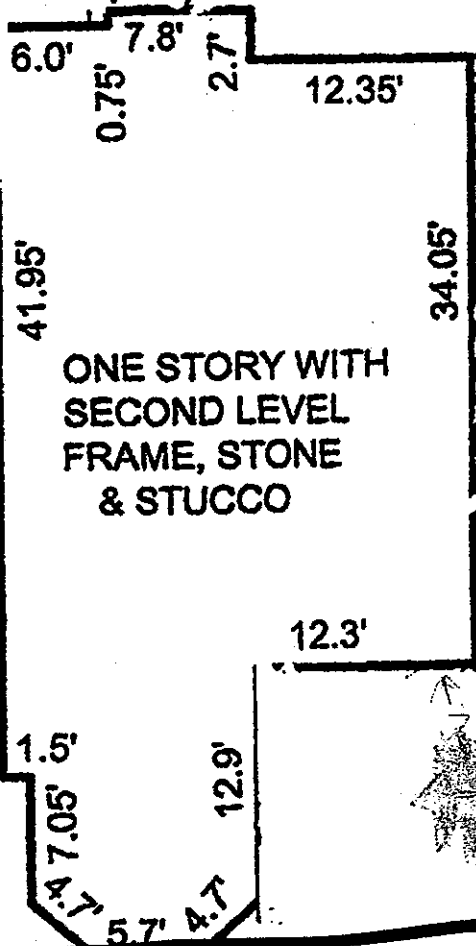
Date

Jeanette  
City Arborist Signature

12/19/11  
Date

Post this document on site while any proposed work is in progress.  
Conditions for approval of this application must be met within 1 year of the effective date.

property line



BENNETT AVENUE

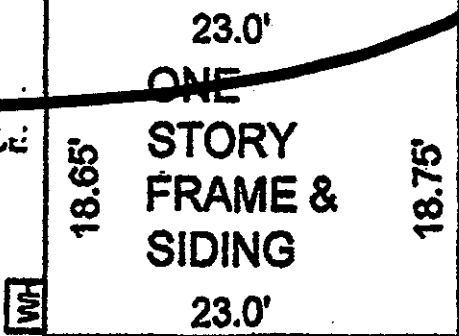
50' R.O.W.

← curb

12-21-2001- Pending approval  
of driveway construction details,  
parking configuration is  
acceptable.

*Whitchurch, DAC*

974-3423



decomposed  
granite driveway

OVER  
LINE

POI

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE:** Monday, November 14, 2011

**CASE NUMBER:** C15-2011-0125

\_\_\_\_ Jeff Jack  
\_\_\_\_ Michael Von Ohlen  
\_\_\_\_ Nora Salinas  
\_\_\_\_ Bryan King **2<sup>nd</sup> the Motion**  
\_\_\_\_ Susan Morrison **Motion to Postpone to Dec 12, 2011**  
\_\_\_\_ Melissa Hawthorne  
\_\_\_\_ Heidi Goebel  
\_\_\_\_ Cathy French (SRB only)  
\_\_\_\_ Will Schnier

**APPLICANT:** David Cancialosi

**OWNER:** Rachel Nation

**ADDRESS:** 1009 43RD ST

**VARIANCE REQUESTED:** The applicant has requested a variance to decrease the minimum lot size requirement of Section 25-2-774 (B) from 7,000 square feet to 5,928 square feet in order to remodel an existing building to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan)

The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain a two-family residential use with exterior water heater closet 5.35 from the rear property (10 feet required) in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan)

The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain a side yard setback of 1 foot (5 feet required) along the west property line in order to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan)

The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain an exterior water heater enclosure 2.5 feet along the west property line (5 feet required) along the west property line in order to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan)

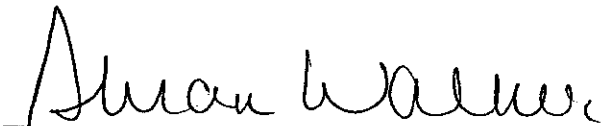
The applicant has requested a special exception from Section 25-2-476 of the Land Development Code in order to maintain exterior stairs and uncovered deck 4.5 feet from the side street property line (15 feet required) in order to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan)

The applicant has requested a variance to decrease the minimum off-street parking requirement of Section 25-6 Appendix A from 3 off-street parking spaces to 0 off-street parking spaces in order to maintain a two-family residential use in an "SF-3-CO-NP", Family Residence – Conditional Overlay – Neighborhood Plan zoning district. (Hancock Neighborhood Plan)

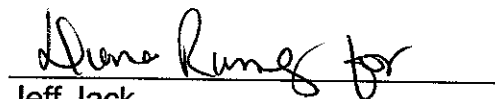
**BOARD'S DECISION:** The public hearing was closed on Board Member Susan Morrison motion to Postpone to December 12, 2011, Board Member Bryan King second on a 7-0 vote; POSTPONED TO December 12, 2011.

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:  
  
(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:



Susan Walker  
Executive Liaison



Jeff Jack  
Chairman

David Orshalick  
2710 West 49<sup>th</sup> ½ Street  
Austin, TX 78731

December 8, 2011

Board of Adjustment  
City of Austin  
P.O. Box 1088  
Austin, TX 78767

Re: **Opposition to CASE #C15-2011-0125**  
Ms. Rachel Nation's request for variances at 1009 E. 43<sup>rd</sup> St.

Dear Chair and Members of the Board of Adjustment:

As an Austin citizen concerned with residential housing compliance issues, including work without permit and no current certificate of occupancy, I ask that you reject Ms. Nation's variance requests since they fail to meet any of the required findings of fact.

### **Variances Sought**

Ms. Nation appears to be asking for the following variances:

- Parking—Decrease the minimum off-street parking from 3 off-street spaces to 0.
- Setbacks—Decrease the minimum setbacks for: exterior water heater closet and rear building from 10' to 5.35' from the rear property line; side yard building from 5' to 1' along the west property line; exterior water heater enclosure from 5' to 2.5' along the west property line; and exterior stairs and uncovered deck from 15' to 4.5' from the side street property line.
- Lot Size—Decrease the minimum lot size requirement from 7,000 to 5,928 square feet.

### **Lack of Findings**

Only the parking variance is requested on the application. All setback requests are made in a letter from David Cancialosi, which fails to address findings as required on the application form. The ordinance cited by Mr. Cancialosi requires that the building official prepare and file a report with the Board, and that the residential use (short term rentals) is an allowed use under current ordinance for residential zoning—it is not. Also, the ordinance cited by Mr. Cancialosi does not apply to unpermitted remodeling, especially the side street decking. The lot size variance is not even addressed in the application.

### **Requirements**

According to BOA instructions, an application must have *all* applicable findings fully filled out, and all variance findings met, for the Board to grant a variance, and must demonstrate that:

- Special circumstances of a property deprive the owner of privileges enjoyed by another person who owns property in the area with the same zoning.
- Zoning regulations do not allow for a reasonable use of the property.
- The hardship is unique and specific to the property. A strictly financial or personal reason is not a valid hardship. And the hardship is not general to the area and is different from other properties in the area.
- The variance will not alter the character of the area, nor impair the use of adjacent conforming property, nor impair the purpose of the zoning regulations of the zoning district.

These requirements have not been met.

## Additional Facts

- Existing curb cuts and available off-street parking: Two different site maps were submitted with the application. One shows two curb cuts (10' and 17') and driveways and the other shows that adequate off-street parking was eliminated by unpermitted construction of decking, hardscape, landscape, and fencing. This off-street parking is reasonably recoverable and/or additional off-street parking could be added in front. Because no trees are marked on the site plans, it's impossible for the Board to determine any parking limitations due to heritage trees.
- Illegal rentals and floor area discrepancies: According to current ads on various marketing websites, Ms. Nation leases the property as a triplex. In addition to the main "Guest Cottage", the "Loft Hideaway" is listed as a "550 sq. ft. studio with queen bedroom and bathroom, kitchen, and laundry" while TCAD lists the square footage at 384. The "Guest Nest" (garage conversion) is listed as a "500 sq. ft. 1BR studio with full kitchen, bathroom, and laundry" while TCAD lists the square footage at 360.
- Improvements made without permit: The Cancialosi letter to the Board clearly refers to work without permit. Therefore, by definition, a current certificate of occupancy does not exist. There is no way to know when improvements were made since all work was done without a permit. In addition, according to reviews of the property on marketing websites, before-and-after pictures were shown by the owner to a guest. According to the owners in their vrbo.com ad, "We purchased ... the Hancock Guest Cottage from my step-dad who grew up there!" Either a family member and/or Ms. Nation did work without a permit.
- Occupancy limits: According to current ads on various marketing websites, all three properties are shown to accommodate up to 10 guests. City code limits occupancy on a property to 6 unrelated adults. This practice also affects parking requirements.
- Cansialosi letter accuracy: According to an Open Records response by the City Controller, Ms. Nation did not pay Hotel Occupancy Tax (HOT) for the 3rd quarter of 2010 for this or two other Short Term Rental properties (3307 Greenlawn Parkway, 3002 Whiteway Drive), while Mr. Cancialosi states "they've been doing so [paying HOT] since purchasing the property in 2007."

## Denial of Variances

Please deny these variance requests as the requirements have not been met.

- Granting this variance will subvert the clear intent of the ordinances and will confer a special privilege not enjoyed by others similarly situated in the neighborhood.
- There are no special circumstances of the property that deprive the owner of privileges enjoyed by others in the area: the applicant's property is virtually identical to other properties in the neighborhood, and many properties are even smaller.
- The size of the lot is more than sufficient to satisfy all of the reasonable uses sought and listed by the applicant.
- There is nothing unique to the property to prevent compliance with the ordinances. There is no hardship relating to the property that differs from other properties in the area. The fact that the site is a corner lot does not present a reasonable use or hardship case. Any hardships were caused by the actions of the owner and prior owner and are purely personal and financial.

In addition, I ask that the Board rule that Ms. Nation stop leasing the property as a triplex. Thank you for your consideration and for your service to Austin.

Sincerely,

David Orshalick



**Walker, Susan**

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**From:** Permit Partners [david@permit-partners.com]  
**Sent:** Monday, December 12, 2011 1:05 AM  
**To:** Walker, Susan; Hernandez, Tony [PDRD]; Stilwell, Kelly; Birkner, Donald; Acquarola, Victor; Buchanan, Kathleen; Tomasovic, Paul  
**Cc:** rachel nation; nick buddo  
**Subject:** 1009 E 43rd ST special exception inspection report needed today

C15-2011-0125

All,

This case was originally heard @ the Nov 14 BOA for various special exception requests to maintain rear and side setbacks.

Per the requirements found in the recently amended amnesty ordinance, a report from the building inspections department is required to be provided to the BOA prior to the Board hearing.

Although permit BP-2011-0998530 was pulled Oct 31 and inspections were finalized on Nov 4 for the exterior stair, exterior water heater, and secondary family unit, no report has been provided prior to the Nov 14 nor the postponed hearing, Dec 12.

This report has been requested several times.

Although lack of an inspection report was not the cause of the original postponement, it would seem unnecessary for the board to again postpone this case if they felt the legal obligation (per the ordinance) of the city to supply a written report to the board has not been met.

If the correct personnel could please supply this to Susan Walker or Diana Ramirez so it may be presented at tonight's hearing that would be appreciated.

Your attention to this detailed matter is very much appreciated.

Sincerely,

David C. Cancialosi, President  
Permit Partners LLC  
Permit Expediting. Zoning Consulting. Site Inspections.

---

8500 Shoal Creek Blvd Bldg 4 Ste. 200  
Austin, Texas 78751  
512-799-2401 direct  
512-373-8846 fax  
[david@permit-partners.com](mailto:david@permit-partners.com)  
[www.permit-partners.com](http://www.permit-partners.com)

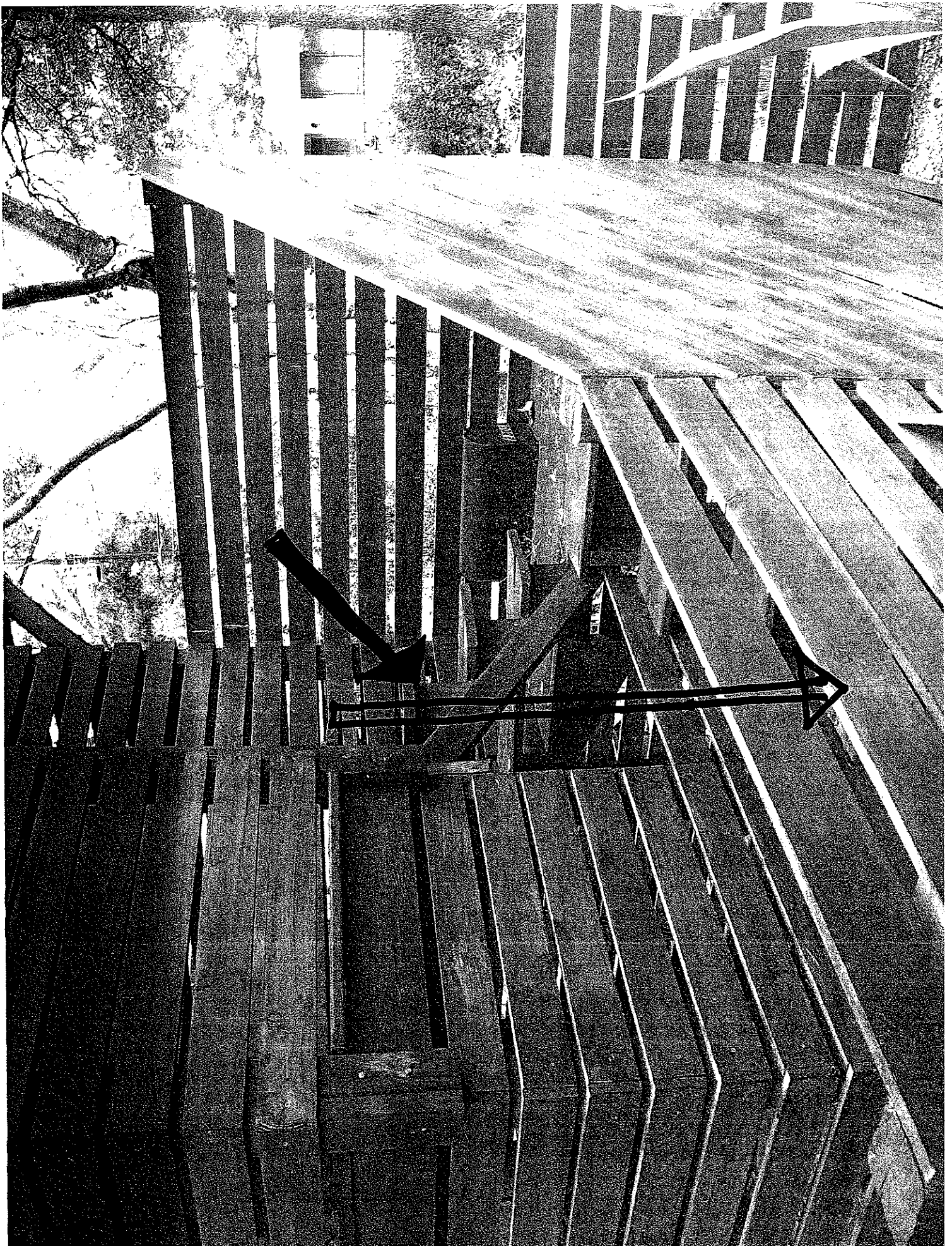
(Sent from my Google phone. Please excuse grammar errors and brief email responses.)

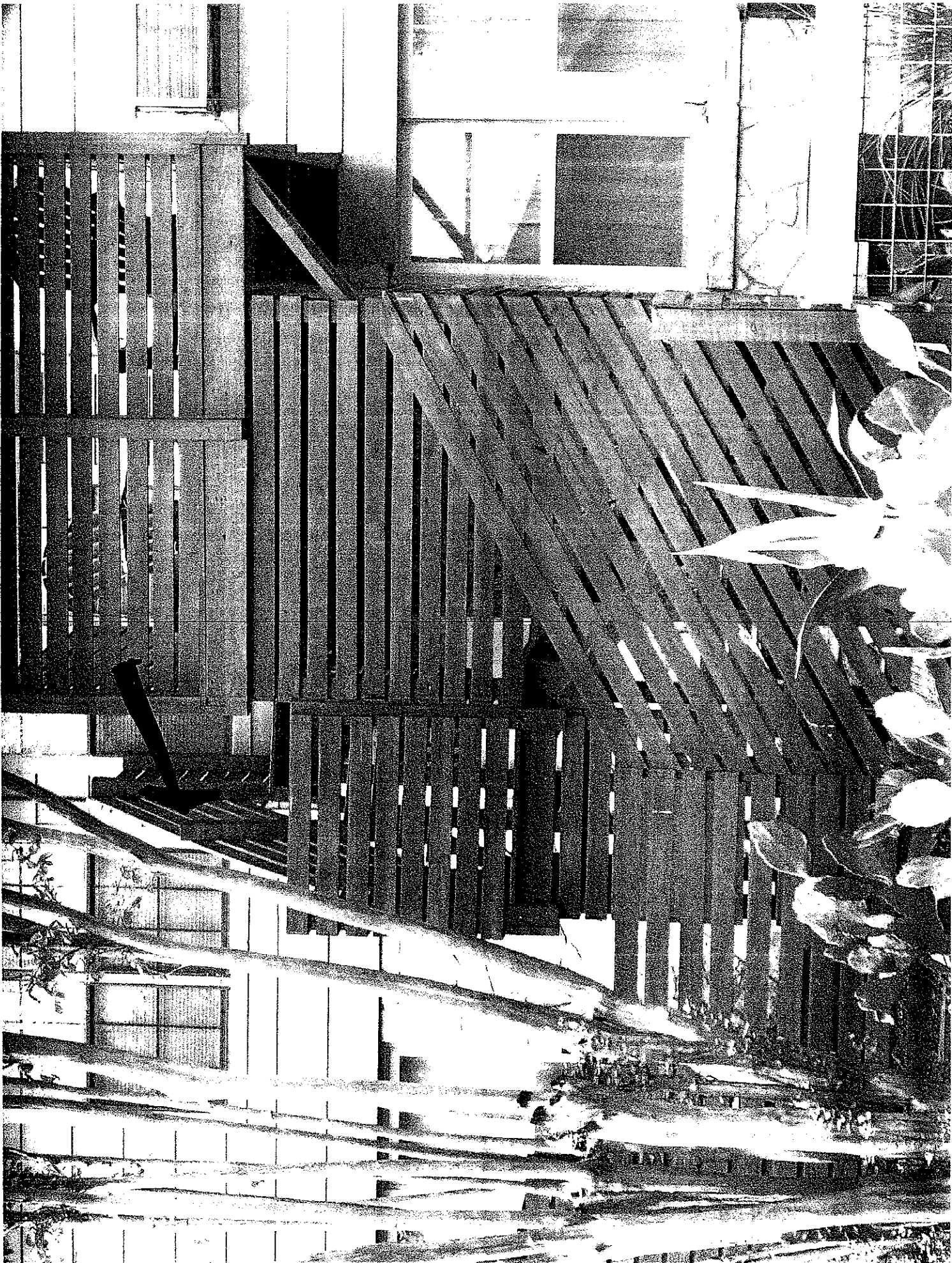
All correspondence contained within this email is confidential and is to be reviewed only by the intended recipient. Should you receive this email communication in error please disregard immediately and notify the sender. Thank you.

12/12/2011

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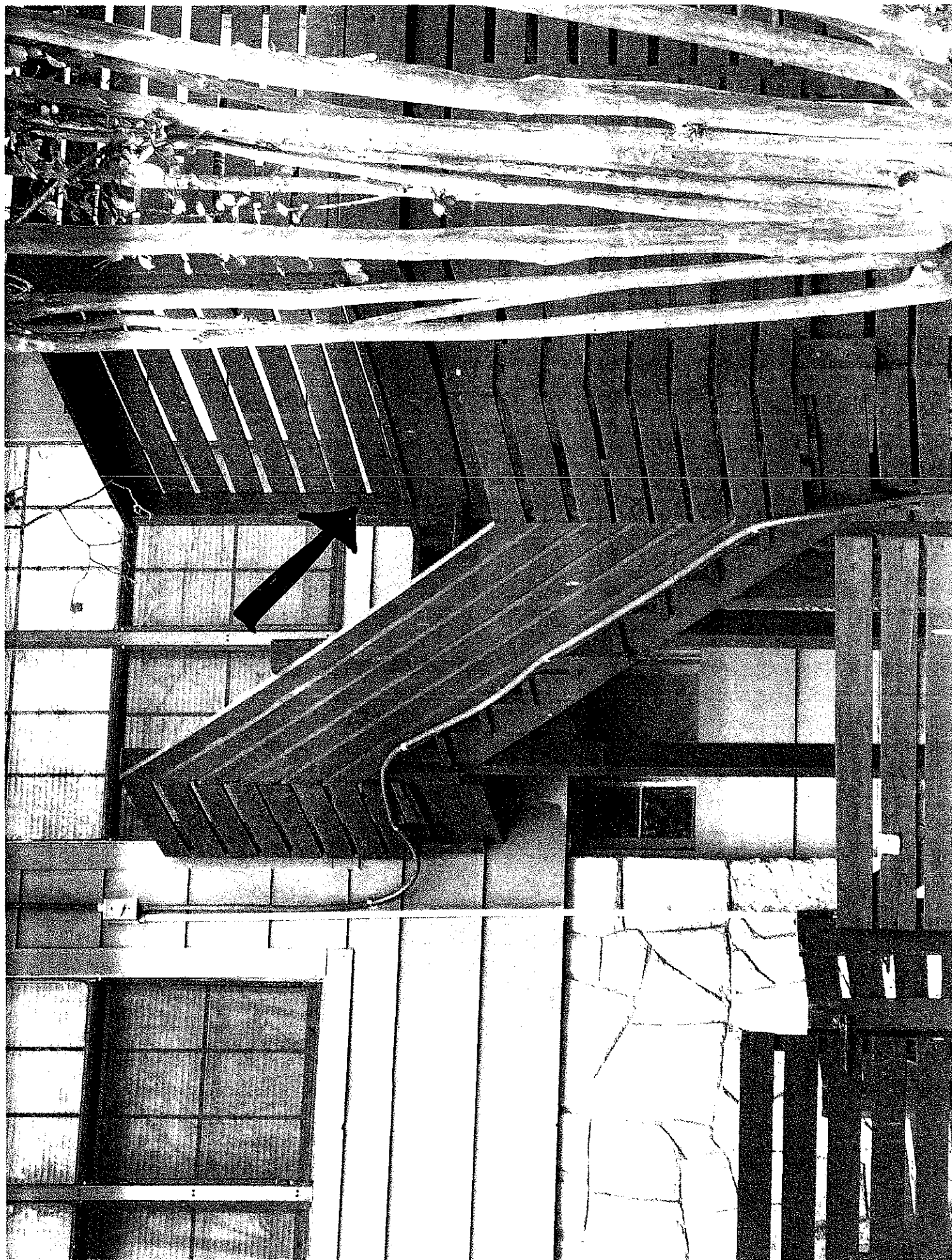
C15-2011-0125







1



**LAND DEVELOPMENT CODE VARIANCE AND SPECIAL EXEMPTION**

Address: 1009 East 43<sup>rd</sup> street Austin, TX 78751 Lot: 22 Subdivision: Country Club Terrace

Attention: City of Austin Case #- C15-2011-0125

I am the owner of the property at 1007 East 43<sup>rd</sup> street directly next door to the property in question regarding a code variance/special exemption and the only property to share a property line with said property. The current owners have been model neighbors and I am writing in support of their code variance and implore you to give them the special exemption that they are seeking. They have always kept their property in great shape (better than almost all in the neighborhood), have been sensitive to the neighbors regarding their business, helped us improve our own property on numerous occasions personally, have never had people in their home who have been bothersome in any way, and have been an asset to the Hancock community. They have developed relationships with the neighbors and have had a model property in the neighborhood.

Please see below my perspective about specifics of why the city of Austin should allow them a variance:

1. Their property, which is again directly next door to ours, does not alter the character of the area. The property is well kept and generally improves the look and feel of the neighborhood due to their thoughtful work to make their property an example of how a property should be kept.
2. There has never been any excess parking at the house in question and it has never been mentioned as an issue with any of the surrounding neighbors. Would it really make sense to put parking spots in the neighborhood on this property? This is a ridiculous requirement!
3. We have never seen or had a high traffic volume. Typically, there is just a car or two in the front of the cottage in keeping with all the rest of these 1930's and 1940's homes in our neighborhood. They have plenty of parking due to their lot being a corner house.
4. We have never been inconvenienced by the water heater, front parapet wall at the house next door due to the distance of 4.2 feet vs. 5 feet to the lot line. This again is city bureaucracy taking the place of common sense.
5. We are in favor of the special exception grandfathering the property to maintain the side and rear yard setbacks; the exterior deck and the stairs have always been that way.

Please allow these responsible citizens to continue to be the great neighbors they are!

Sincerely,

James and Julie Goode; 1007 E 43<sup>rd</sup> Street Austin, TX 78751  
Career Texas Teachers  
University of Texas Alumni

## PUBLIC HEARING INFORMATION

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- appearing and speaking for the record at the public hearing; and:
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- is the record owner of property within 500 feet of the subject property or proposed development; or
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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

TANYA POSAVATZ

Your Name (please print)

☒ I am in favor  
☐ I object

1008 E. 43<sup>RD</sup> STREET, ATX, 78751

Your address(es) affected by this application

*[Signature]* 11/6/11  
Date

Signature

Daytime Telephone: (512) 947-8718

Comments: The property is directly across the street from mine. It is one of the nicest - if not the nicest - looking properties on the block. I'm improving the look of the neighborhood. They have plenty of parking (it's a corner property) so I am never inconvenienced by ever parking at their house. I am in favor of the special exception "grandfathering" to maintain their setbacks, eave over deck, Stair and 2 family use. They are a benefit to the street & neighborhood.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

Blaine J. Alexander

Your Name (please print)

1006 E 43<sup>rd</sup> ST Austin 78751

Your address(es) affected by this application

*Blaine J. Alexander*

Signature

Date

Daytime Telephone: 512-680-7142

Comments: I am in favor of the

"grandfathering" of this property to maintain the side & rear yard setbacks, stairs, water heater & 2-family use. Parking on this street is no problem. They have made the property a wonderful addition to the street

If you use this form to comment, it may be returned to:

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Susan Walker

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

Caesar Cortez

Your Name (please print)

1004 E. 43<sup>rd</sup> St.

Your address(es) affected by this application

Caesar Cortez

Signature

Date

Daytime Telephone: (512) 579-8458

Comments:

Great house and  
Great people!! No problems

☒ I am in favor  
☐ I object

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor  
Susan Walker  
P. O. Box 1088  
Austin, TX 78767-1088



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**Case Number: C15-2011-0125 – 1009 E 43<sup>rd</sup> Street**  
**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

RACHEL NATION

*Your Name (please print)*

1009 E. 43<sup>rd</sup> Street

*Your address(es) affected by this application*

*Rachel Nation*

November 4, 2011

*Date*

*Signature*

Daytime Telephone: 512-327-1213

Comments: We purchased this property in late 2007. The existing setback

issues and apartment conversions happened some time in the 1980's by the previous owner and are documented in our title paperwork and appraisal

documents. By virtue of existing for at least 25 years we have been advised by

Laura Morrison's office that we qualify for the Amnesty created by City Code

20110526-098. Up until 2004 our property was zoned Commercial. Because we

back to the HEB parking lot there is plenty of parking, and street parking has

never caused a hardship for our neighbors, nor does it change the character of the neighborhood. Our neighbors on all sides are strongly in favor.

**If you use this form to comment, it may be returned to:**

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Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

GEMMA NEARS

Your Name (please print)

1011 E. 44th St. Apt. A

Your Address(es) affected by this application

*[Signature]*

Signature

Daytime Telephone: 512-243-6631

Comments:

I am in favor of  
qualifying the water heater  
and by AC and by setback.

Date

11/6/11

☒ I am in favor  
☐ I object

If you use this form to comment, it may be returned to:

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**Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

Kathy Macceli

Your Name (Please print)

1003 E. 44<sup>th</sup> St Austin, TX

Your address(es) affected by this application

Kathy Macceli

Signature

11-5-11

Date

Daytime Telephone: 512-454-7117

Comments:

**If you use this form to comment, it may be returned to:**

**City of Austin-Planning & Development Review Department/ 1st Floor**

**Susan Walker**

**P. O. Box 1088**

**Austin, TX 78767-1088**

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**Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

Your Name: C15-2011-0125 0218090110

SCHOOLFIELD JOHN ANDREW  
1003 E 43RD ST

Your address: AUSTIN TX 78751-4406 on

☒ I am in favor  
☐ I object

Signature \_\_\_\_\_ Date \_\_\_\_\_

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

CAROL PIRIE

Your Name (please print)

1006 E. 44<sup>th</sup>, Austin 78751

Your address(es) affected by this application

Carol Pirie

Signature

11-6-11

Date

Daytime Telephone: 512-789-8943

Comments:

I'm in favor of grandfathering the cottage, water heater, deck and stairs at Rachel & Nick's house. Since they bought it, they've made it into a great asset to the neighborhood -

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Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

Laura M Camp  
Your Name (please print)

☒ I am in favor  
☐ I object

1002 E 44<sup>th</sup> St Austin TX 78751

Your address(es) affected by this application

Laura M Camp 11/06/11  
Signature Date

Daytime Telephone: 512 6383835

Comments: The property actually improves the character of the neighborhood. The property is well kept & improves the look & feel of the neighborhood. Parking is not a problem because the houses on a corner give you a view of high traffic volume.

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Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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**Case Number: C15-2011-0125 – 1009 E 43<sup>rd</sup> Street**  
**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

☒ I am in favor  
☐ I object

Your Name

C15-2011-0125 0218090505

HARKRIDER JAMES THOMAS

1021 E 44TH ST

AUSTIN TX 78751

Your address

Signature

Date

Daytime Telephone:

Comments:

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P. O. Box 1088

Austin, TX 78767-1088

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

Lyn FRASER

Your Name (please print)

1009 E 43rd

Your address(es) affected by this application

Lyn Fraser

Signature

11-6-11

Date

Daytime Telephone: 512-628-0619

Comments: There has never been any

need for extra parking --

property most adequate

as it is.

If you use this form to comment, it may be returned to:

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Susan Walker

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Austin, TX 78767-1088



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**Case Number: C15-2011-0125 – 1009 E 43<sup>rd</sup> Street**  
**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

NICHOLAS BUDDO

*Your Name (please print)*

1009 E. 43rd Street

*Your address(es) affected by this application*

November 4, 2011

*Date*

*Signature*

Daytime Telephone: 512-297-3945

Comments: Our request will not result in a special privilege inconsistent with other properties in the area. Many properties in the area reflect a combination of primary and secondary uses, various setback issues, and on-street parking due to the lack of original garages and driveways. The current use and slight zoning encroachments are completely in keeping with surrounding properties. Our whole cottage itself is 4.2 feet from the lot line as documented back to a 1936 survey. The Hancock neighborhood is littered with dozens of secondary apartments and accessory units. We have spoken with a dozen of our neighbors, and they told us the current encroachments do not impair the use of their adjacent properties.

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 Susan Walker  
 P. O. Box 1088  
 Austin, TX 78767-1088

☒ I am in favor  
☐ I object

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**Case Number:** C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
**Contact:** Susan Walker, 512-974-2202

**Public Hearing:** Board of Adjustment, November 14th, 2011

Your Name (please print) Abby Lavine

☒ I am in favor  
☐ I object

909 e. 43<sup>rd</sup> st.

Your address(es) affected by this application

[Signature] 11/6/11  
 Signature Date

Daytime Telephone: 512-636-9182

Comments:

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

Amber Scher

Your Name (please print)

1013 E 43<sup>rd</sup> Austin, TX 78751

Your address(es) affected by this application

*[Signature]*

Signature

Date

Daytime Telephone: 512-928-9882

Comments:

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Austin, TX 78767-1088

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

Darb Hernandez

Your Name (please print)

1006 E. 43<sup>rd</sup> St. Austin 78751

Your address(es) affected by this application

Darby Hernandez

Signature

11. .11

Date

Daytime Telephone: 512-656-8807

Comments: The house in question is a complete improvement over the previous owner in looks, security, and quality of its occupants. Upkeep is above-average. There is no disadvantage to no parking spaces which would spoil the street.

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**Public Hearing: Board of Adjustment, November 14th, 2011**

<input checked="" type="checkbox"/> I am in favor <input type="checkbox"/> I object
--

Your Name (please print): ENRIQUEZ SALVADOR E

Your address(es): 1010 E 43RD ST  
 AUSTIN TX 78751-4416

Signature: *[Handwritten Signature]* Date: *[Handwritten Date]*

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_

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 Austin, TX 78767-1088

## PUBLIC HEARING INFORMATION

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**Case Number:** C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
**Contact:** Susan Walker, 512-974-2202

**Public Hearing:** Board of Adjustment, November 14th, 2011

Hannah Goode

Your Name (please print)

1009 E. 43<sup>rd</sup> RD

Your address(es) affected by this application

11/5/11 Date

Signature

Daytime Telephone:

Comments:

Great house  
Great neighbors!  
We are the adjacent  
property and are in no  
way adversely affected  
by the comes brought  
forth in this special  
exception variance.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor  
 Susan Walker  
 P. O. Box 1088  
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Case Number: C15-2011-0125 – 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

*Melvin de la Cruz*

Your Name (please print)

*1620 E. 43rd St.*

Your address(es) affected by this application

*[Signature]*

Signature

Date

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

DORNE GILADY

Your Name (please print)

605 E. 43<sup>rd</sup> St.

Your address(es) affected by this application

D. J. Gilady 11/11

Signature

Date

Daytime Telephone: \_\_\_\_\_

Comments:

I AM 90 YEARS OLD AND  
I AM VERY MUCH IN FAVOR.  
I HAD HAVE LIVED HERE  
SINCE THE 1980'S & THE PROPERTY  
IS MUCH IMPROVED. GIVE THESE  
PEOPLE A BREAK. EVERY ANNUAL  
HOUSE IN MY NEIGHBORHOOD HAS  
A PROBLEM.

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Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

Pyker Brown

Your Name (please print)

1011 E 43 st 78751

Your address(es) affected by this application

[Signature]

Signature

Daytime Telephone: 858.740.8936

Comments:

11/6/11

Date

☒ I am in favor  
☐ I object

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Susan Walker  
P. O. Box 1088  
Austin, TX 78767-1088

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

LIANNA MILLS

Your Name (please print)

4314 AVENUE H

Your address(es) affected by this application

11.6.11

Date

Daytime Telephone: 512.736.2807

Comments:

THE PROPERTY IS WELL  
KEPT AND WE ARE NEVER  
DURDONED BY EXCESS PARKING.  
WE FULLY SUPPORT THE  
SPECIAL EXCEPTION VARIANCE.

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Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

George C. Wilson

Your Name (please print)

☒ I am in favor  
☐ I object

1004 E 43<sup>rd</sup> ST

Your address(es) affected by this application

George C. Wilson

Signature

11/6/2011

Date

Daytime Telephone: 512-739-6622

Comments: The ~~subject~~ <sup>Cottage as apartment</sup> is a great improvement to the character of the neighborhood. We have never had any issues with any of the tenants - no noise, no parking problems - no problems at all. Rachel & Nick provided a contact number to report problems but I've never had to use it. Please allow this well kept cottage to stay as it is.

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Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

FA-E ROZMARYN

Your Name (please print)

1003 EAST 44TH ST.

Your address(es) affected by this application

Page 1009

Signature

Daytime Telephone: 512 454 7117

Comments:

☒ I am in favor  
☐ I object

11/7/11  
Date

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**Case Number:** C15-2011-0125 – 1009 E 43<sup>rd</sup> Street

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**Public Hearing:** Board of Adjustment, November 14th, 2011

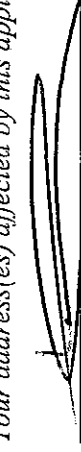
William A. Dudley

☐ I am in favor  
☒ I object

Your Name (please print)

1011 E. 43<sup>rd</sup> St. Austin, Tx 78751

Your address(es) affected by this application



Signature

Date

Daytime Telephone: 361-884-3488

Comments:

I own the house across  
the street from 1009 E. 43<sup>rd</sup>  
St. I want to keep the  
integrity of the neighborhood as  
one for single-family dwellings.

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**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

SUMNER BROW

Your Name (please print)

4301 RED RIVER ST

Your address(es) affected by this application



Signature

Daytime Telephone: 512 535 1168

Date

11-7-11

Comments:

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**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

Leon Katz  
 Your Name (please print)

☒ I am in favor  
☐ I object

4302 Hannon Ave Austin TX 78751  
 Your address(es) affected by this application

11.9.11  
 Date

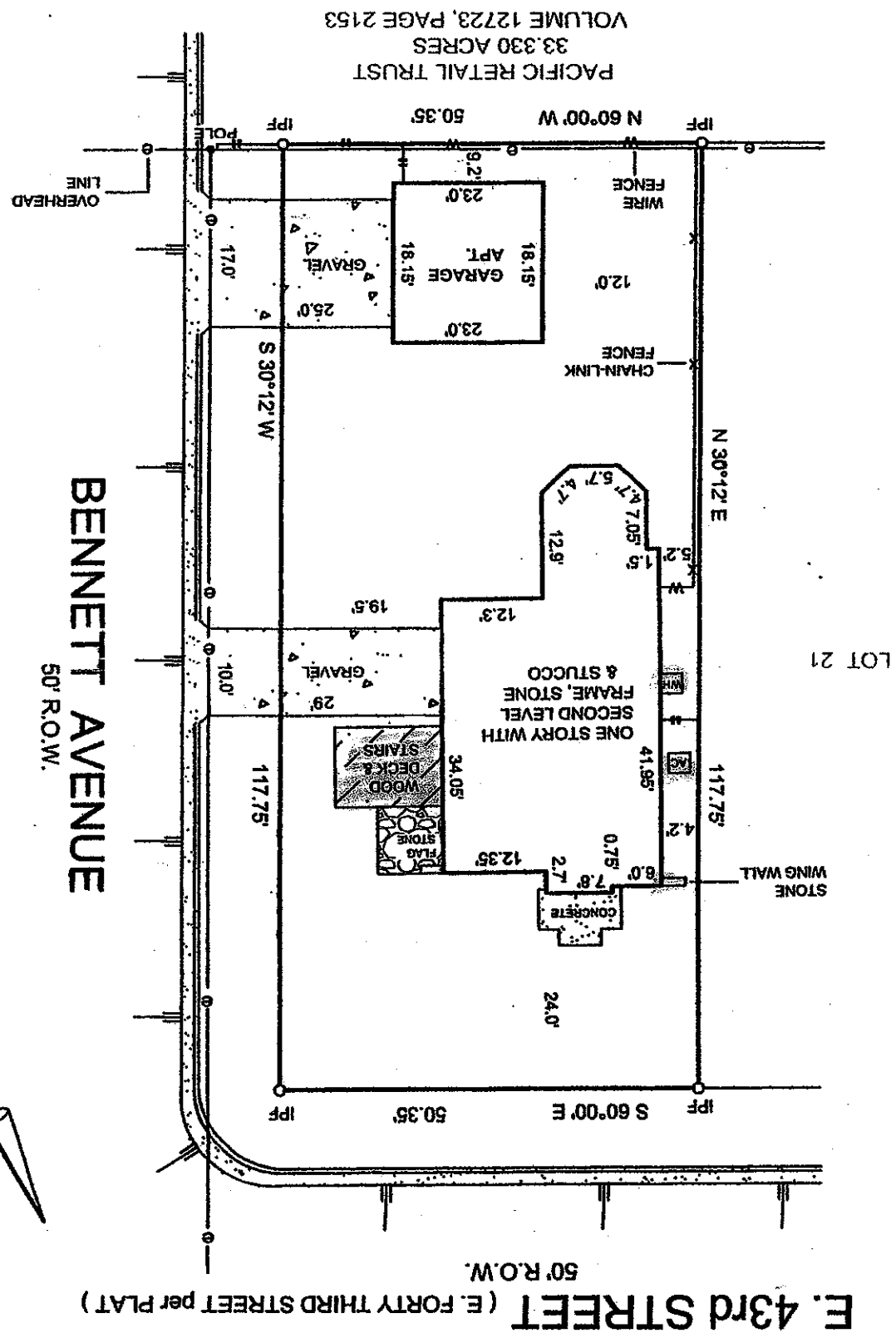
Daytime Telephone: 512-758-3438

Comments:

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NOTE:  
IN ACCORDANCE WITH F.L.R.M. FEDERAL  
INSURANCE ADMINISTRATION FLOOD  
HAZARD BOUNDARY MAPS, THIS LOT  
IS NOT WITHIN A SPECIAL FLOOD  
HAZARD AREA



PACIFIC RETAIL TRUST  
33.330 ACRES  
VOLUME 12723, PAGE 2153



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- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

David Gray  
Your Name (please print)

☒ I am in favor  
☐ I object

911 E 43<sup>rd</sup> St

Your address(es) affected by this application

John C. Gray  
Signature

11/6/11  
Date

Daytime Telephone: 512-628-0710

Comments:

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor  
Susan Walker  
P. O. Box 1088  
Austin, TX 78767-1088

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**Case Number: C15-2011-0125 -- 1009 E 43<sup>rd</sup> Street**  
**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

Carolyn C. Wylie  
 Your Name (please print)

☒ I am in favor  
☐ I object

904 E. 43

Your address(es) affected by this application

Carolyn C. Wylie  
 Signature

11-6-11  
 Date

Daytime Telephone: 453-2556

Comments:

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 P. O. Box 1088  
 Austin, TX 78767-1088

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

TANYA POSAVATZ

Your Name (please print)

1008 E. 43<sup>RD</sup> STREET, ATX, 78751

Your address(es) affected by this application



Signature

11/6/11

Date

Daytime Telephone: (512) 947-8718

Comments: The property is directly across the street from mine. It is one of the nicest - if not the nicest - looking properties on the block. Definitely improving the look of the neighborhood. They have plenty of parking (it's a corner property) so I am never inconvenienced by excess parking at their house. I am in favor of the special exception "grandfathering" to maintain their setbacks, eave deck, stair and 2 family use. They are a benefit to the street + neighborhood.

If you use this form to comment, it may be returned to:

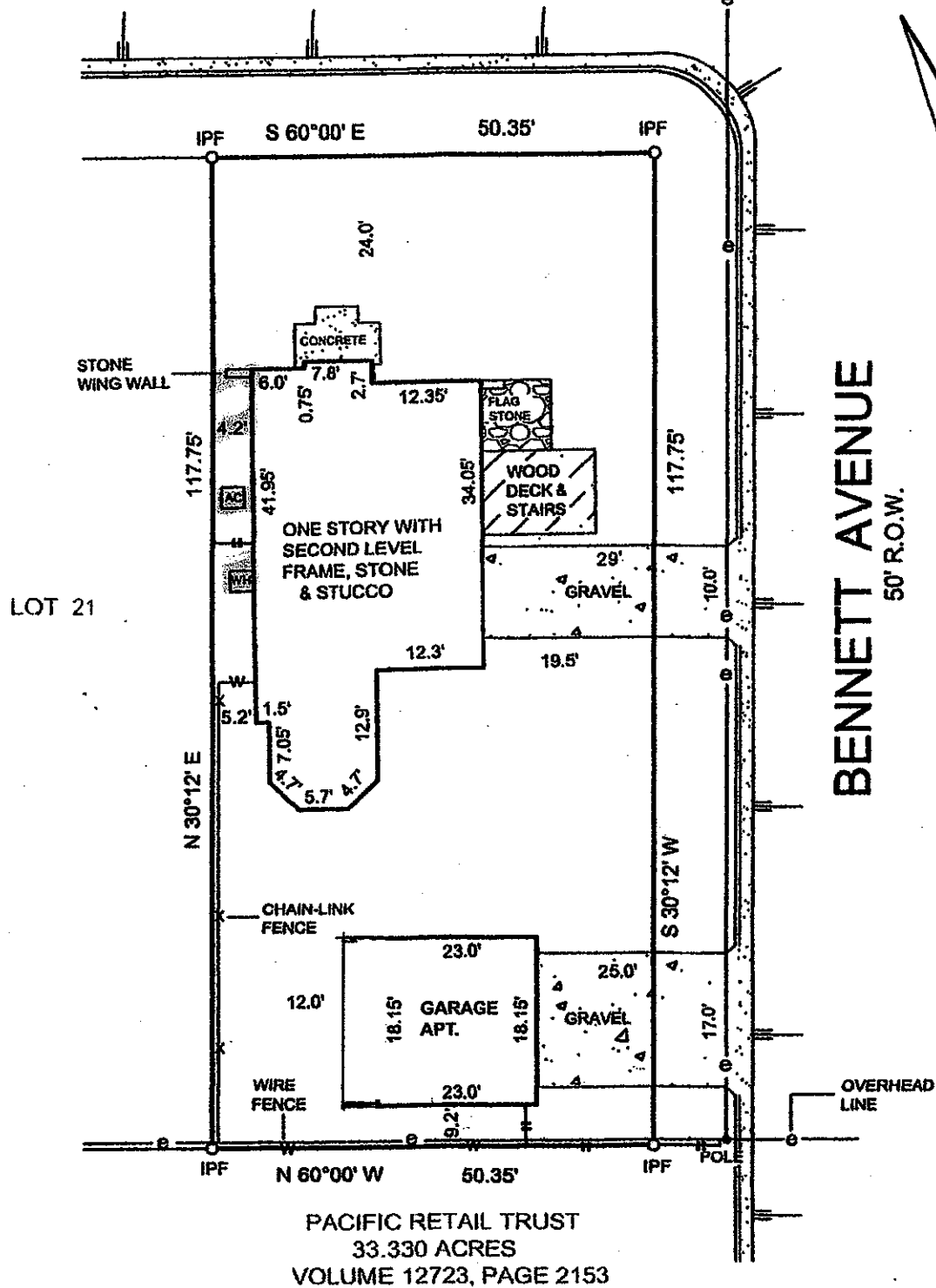
City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

**E. 43rd STREET** ( E. FORTY THIRD STREET per PLAT )  
50' R.O.W.



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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

PIPER THORNTON

Your Name (please print)

908 E 43RD ST

78751

Your address(es) affected by this application

Piper Thornton

Signature

11/6/11

Date

Daytime Telephone: 512-797-3425

Comments:

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

TERESA M. CHRISTOPHER

Your Name (please print)

906 E 43<sup>rd</sup> St. Austin, TX 78751

Your address(es) affected by this application

Teresa Christopher 11-6-11

Signature

Date

Daytime Telephone: 512-551-8231

Comments:

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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**Case Number: C15-2011-0125 – 1009 E 43<sup>rd</sup> Street**  
**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

Danielle Martin

*Your Name (please print)*

1027 E 43<sup>rd</sup> St

*Your address(es) affected by this application*

Danielle Martin

*Signature*

11/10/11

*Date*

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**If you use this form to comment, it may be returned to:**

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 Susan Walker  
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**Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

GEORGE E. BRADSHAW

*Your Name (please print)*

☒ I am in favor  
☐ I object

1032 E 43<sup>rd</sup> St.

*Your address(es) affected by this application*

George E. Bradshaw

*Signature*

11-5-11

*Date*

Daytime Telephone: 453 8711

Comments: NO COMMENTS

**If you use this form to comment, it may be returned to:**

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088



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**Case Number: C15-2011-0125 – 1009 E 43<sup>rd</sup> Street**  
**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

MARtha Vick  
 Your Name (please print)

☒ I am in favor  
☐ I object

1014 E. 43<sup>rd</sup> St - Austin TX 78751  
 Your address(es) affected by this application

[Signature] 4-7-2011  
 Signature Date

Daytime Telephone: 512-420-8835

Comments:

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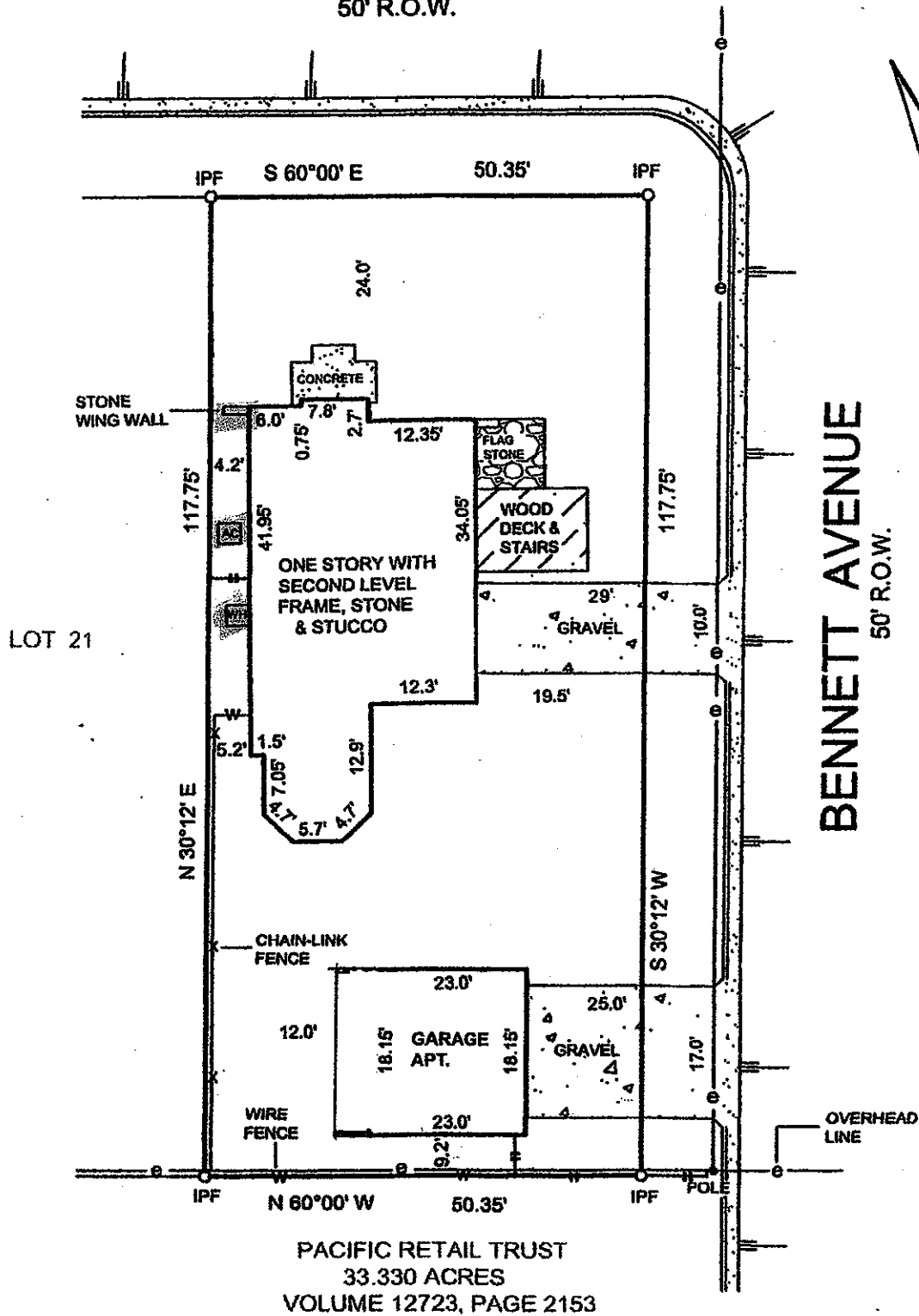


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 Susan Walker  
 P. O. Box 1088  
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**E. 43rd STREET** ( E. FORTY THIRD STREET per PLAT )  
50' R.O.W.



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**Case Number: C15-2011-0125 – 1009 E 43<sup>rd</sup> Street**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

LAUREN DARCY

*Your Name (please print)*

☒ I am in favor  
☐ I object

1001 E. 43RD ST APT B

*Your address(es) affected by this application*

11-05-11

*Date*

*Signature*

Daytime Telephone: 512-471-4071

Comments:

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**Case Number:** C15-2011-0125 -- 1009 E 43<sup>rd</sup> Street  
**Contact:** Susan Walker, 512-974-2202

**Public Hearing:** Board of Adjustment, November 14th, 2011

**JOHN L. WRIGHT**

*Your Name (please print)*

**1023 E. 43<sup>RD</sup>.**

*Your address(es) affected by this application*

**John L. Wright**

*Signature*

*Date*

**467-9301**

*Daytime Telephone:*

*Comments:*

**OK with me to grandfather  
the variance**

**If you use this form to comment, it may be returned to:**

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 P. O. Box 1088  
 Austin, TX 78767-1088

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**Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, November 14th, 2011**

PATRICIA A. WAINWRIGHT  
Your Name (please print)

☒ I am in favor  
☐ I object

1015 E. 43<sup>RD</sup> AUSTIN, TX 78751

Your address(es) affected by this application

[Signature] 11-7-11  
Signature Date

Daytime Telephone: 512-496-2905

Comments: Before Nick + Rachel bought this house + converted it to a charming bed + breakfast, it had been inhabited for years by an endless stream of "musicians" who had no regard for their neighbors or their environment. Nick + Rachel have put much time + effort into creating a lovely neighborhood that would be an asset to my neighborhood.

**If you use this form to comment, it may be returned to:**

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak **FOR** or **AGAINST** the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2011-0125 - 1009 E 43<sup>rd</sup> Street  
Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, November 14th, 2011

T. DEMETRE VAGALIS

Your Name (please print)

☒ I am in favor  
☐ I object

1011 E 44th Street, Austin, TX.  
Your address(es) affected by this application

 Date 10 Nov 2011

Signature

Date

Daytime Telephone: 404-456-8778

Comments: Keeping the original character of old houses, even if remodeled, is in the best interest of the city and helps retain an historic neighborhood. It preserves the city will allow this variance -

If you use this form to comment, it may be returned to:  
City of Austin-Planning & Development Review Department/ 1st Floor  
Susan Walker  
P. O. Box 1088  
Austin, TX 78767-1088

TO SYLVIA AR2014  
FAX: 974-2269

**Ramirez, Diana**

---

**From:** MFAANCON@aol.com  
**Sent:** Monday, November 14, 2011 5:04 AM  
**To:** Ramirez, Diana  
**Subject:** BOA case no. C15-2001-0125 (Monday, 11/14/2011)

Dear Ms. Ramirez:

You may wish to share the following information with the members of the BOA prior to tonight's meeting. This property is being used as a short term rental:

The above case number on today's agenda refers to a complex at 1009 E 43th St. that is owned by Rachel Nation and Nick Buddo [www.hancockguestcottages.com](http://www.hancockguestcottages.com) and the complex is called "Hancock Guest Cottage". There is a photo of the house on the web site that agrees with the photo in the BoA backup material, so conclusive evidence that this is the same property.

The web site also says "Rent the upstairs Loft Hideaway as part of the Cottage or the Guest Nest Zen Studio at the rear of the property." The upstairs is a stand-alone, separate-entry, rental area with bath, laundry, and kitchen. The Zen Studio is a separate building in the back with kitchen, bathroom, and laundry.

This area is zoned SF3-CO-NP, which normally allows duplex but not multiplex. The BoA appeal calls the building a two-family unit. It is really a three family complex.

Regards,

Maurice Anderson

3005 Whiteway Drive  
Austin, Texas 78757  
office: 512.452.2841  
fax: 512.452.4244  
mobile: 512.750.3814  
[mfaancon@aol.com](mailto:mfaancon@aol.com)

11/14/2011

updated

ROW #

C15-2011-0125

Row: 10661158

TP#0218090113

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE

PLEASE: APPLICATION MUST BE TYPED WITH ALL  
REQUESTED INFORMATION COMPLETED.

WARNING: Filing of this  
appeal stops all affected

construction activity.

STREET ADDRESS: 1009 E 43<sup>rd</sup> St

LEGAL DESCRIPTION: Subdivision -

Lot(s) 22 OLT 18 Block Division Country Club Terrace

I/We David Cancialosi on behalf of myself/ourselves as authorized agent for

Rachel Nation affirm that on Oct 3, 2011

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

     ERECT      ATTACH      COMPLETE      REMODEL X MAINTAIN

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

Zoning: SF-3 - CO-NP (Hancock N.P.)  
Variance to regulations requiring 3 off-street parking spaces

lot size 7,000 → 5,928 for

2 family  
residence

\* (3-0 parking)



**VARIANCE FINDINGS:** I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The subject site is a corner lot. Typical lots in this neighborhood have no front curb cut. Rather, the garage and curb cut was placed to the rear of the primary structure – taking access from the intersecting street. The subject site's original garage and curb cut is in keeping with this layout. The original garage was converted to a garage apartment in the mid-1980's. At that time the parking was moved to an area taking access from the pre-existing curb cut off of Bennett St., the intersecting side street. That 'area' was not technically acceptable as it extended into the Bennett St. ROW. Over time, parking for the primary structure and 2 family unit utilized this side street without disrupting traffic, bicycle, or pedestrian patterns. Bennett St. opens to the rear of Hancock Shopping Center. This section along Bennett St. (between E 43<sup>rd</sup> St and the Hancock Center parking lot) can accommodate approximately 7 vehicles. Historically this curb section has not seen more than 3-4 parked adjacent to the subject site at any one time. Application of the parking regulations requiring 3 off-street parking spaces would be an unreasonable application of the code given the low impact, historical parking scenario associated with this site.

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

Since the 2 family unit was converted in the mid-1980's, the parking has been utilized in the current manner. The applicant is also seeking a Special Exception to keep the 2 family unit in its pre-existing location. Should this parking request be denied, the applicant will be forced to convert a 2 family unit that's been in existence for approximately 25 years. Conversely, if the Special Exception request to maintain the 2 family unit is approved yet the request to maintain zero off-street parking is approved, the site will remain non-compliant.

The city of Austin Arborist department has denied a request to provide off-street parking due to an on-site Heritage Tree located between the secondary and primary structures, adjacent to Bennett St. Arborist Staff was consulted, site visits were performed by city staff, and options to install crushed granite near the protected tree's root system were proposed to city staff. Ultimately, staff denied the applicant's proposal to install any off-street parking at the only available space between the 2 family unit and the primary structure.

Thus, off-street parking requirements cannot be met at this time due to a combination of pre-existing conditions and current city regulations. All things considered, it appears to be in the best interest of the property owner and the city to approve said parking request in order to remedy the non-compliant issues.

- 
- (b) The hardship is not general to the area in which the property is located because:

**There are no known scenarios in the area that match this specific site's conditions of a pre-existing 2 family dwelling unit, corner lot, on-site protected / heritage tree, and historical on-street parking.**

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

**The current parking scenario has been in place for approximately 25 years without detracting from neighborhood character. Homes in the neighborhood have smaller lots with 1, sometimes 2 – car garages. It is common for cars to be parked on the ROW in central Austin neighborhoods. Additionally, this specific lot abuts ROW that opens up to the rear parking lot of Hancock Shopping Center. The rear of Hancock Shopping Center primarily serves as a shipping and receiving area for several retail uses found within the mall.**

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

**The on-street parking at said location has been in existence for approximately 25 years without issue. Traffic along Bennett St. to and from Hancock Shopping Center appear to have zero impact on the subject site's parking along Bennett St, and visa versa. Literal enforcement of the parking regulations would substantially impair the pre-existing use of the subject site.**

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

**There is space along Bennett St. and in front of the subject site along E 43<sup>rd</sup> St to accommodate 7-9 vehicles. At no point does the applicant anticipate more than 3-4 vehicles parked along either Bennett St. or E. 43<sup>rd</sup> St. Historically, no more than 2-3 cars have been parked in the ROW since the garage conversion to a dwelling unit in the mid-1980's. There is zero loading activities associated with this site. There is no interference with free flowing traffic.**

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

**There are no know historical or current safety issues associated with parking 3-4 vehicles along Bennett St. or E. 43<sup>rd</sup> St. The pre-existing parking scenario has shown zero cause for concern, has solicited zero complaints from neighbors, nor does it exhibit any condition(s) inconsistent with the objectives found in Section 479 or otherwise noted in the Transportation regulations found in LDC Chapter 25-6.**

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

The pre-existing parking scenario is directly related to the conversion of the original garage to a dwelling unit. Should the dwelling unit be removed, demolished, or converted back to non-livable space there would be sufficient space for 2 off-street parking spaces. There is no intent to convert the garage to non-livable space.

**NOTE:** The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly

**APPLICANT  
CERTIFICATE - I**

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

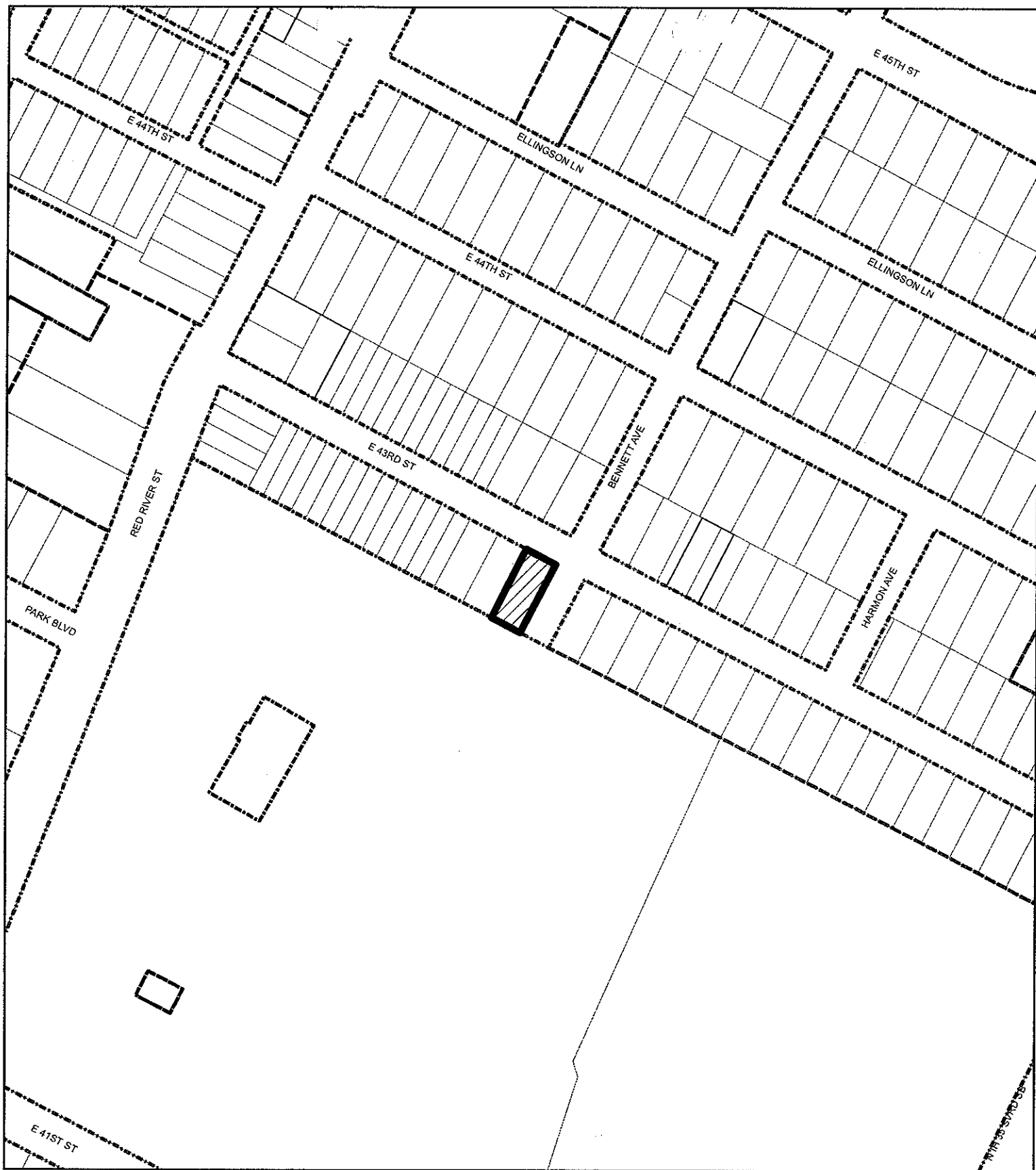
**NOTE:** The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Mail Address 8500 S MOPAC CROSS BLVD  
BLDG 4 STE 200  
City, State & Zip AUSTIN TX  
Printed DAVID CANCARI Phone 799 2401 Date 9/22/11

**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Mail Address 224 PHILLIPS AVE  
City, State & Zip AUSTIN TX 78731  
Printed LAUREL NIXON Phone \_\_\_\_\_ Date 9/21/11



SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2011-0125  
LOCATION: 1009 E 43RD



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



## City of Austin

*Austin's Community-Owned Electric Utility*

[www.austinenergy.com](http://www.austinenergy.com)

Town Lake Center • 721 Barton Springs Road • Austin, Texas • 78704

October 28, 2011

David C. Cancialosi  
Permit Partners  
8500 Shoal Creek Blvd, Bldg 4, Ste 200  
Austin, Texas 78757  
Via email: [david@permit-partners.com](mailto:david@permit-partners.com)

Re: 1009 E. 43<sup>rd</sup> St  
Lot 22, Country Club Terrace

Dear David,

Austin Energy (AE) has reviewed your application for the above referenced property requesting to reduce the following setbacks in order to maintain the existing improvements: rear setback to 5.35 ft, street side yard setback to 4.5 ft; and interior side yard setback to 2.5 ft as shown on the attached red-stamped sketch. Austin Energy will not object to this request to reduce setbacks in order to maintain existing improvements, however, the owner/applicant is hereby notified that the existing structures may be in violation of current clearance criteria and any new modifications and/or additions must meet the current clearance criteria.

Thank you for checking with us in advance. Should you have any questions, please feel free to contact me at 322-6587.

Sincerely,

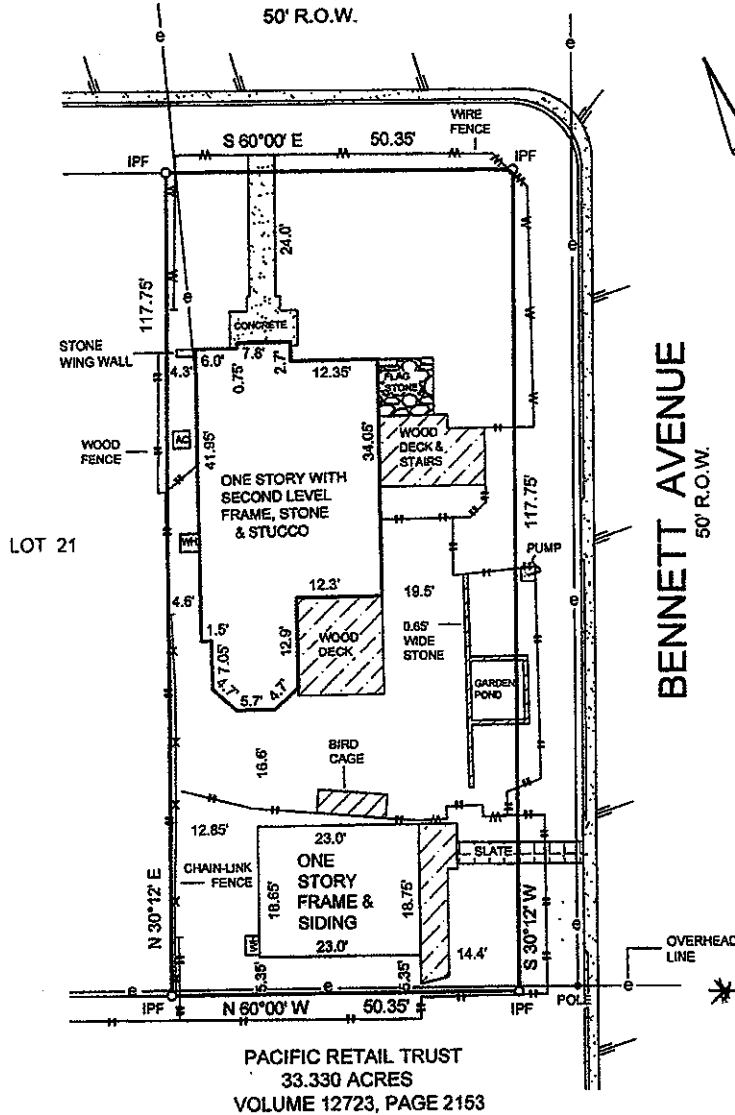
A handwritten signature in black ink, appearing to read "Lena Lund".

Lena Lund

Public Involvement/Real Estate Services

Cc: Diana Ramirez and Susan Walker

**E. 43rd STREET ( E. FORTY THIRD STREET per PLAT )**  
50' R.O.W.



PACIFIC RETAIL TRUST  
33.330 ACRES  
VOLUME 12723, PAGE 2153

**BENNETT AVENUE**  
50' R.O.W.

*1009 E 43rd St.*  
This plat was reviewed this plan for  
and approved/signed by the relevant authority on the basis of Adjustment. Any change to  
this plat must be approved by Austin Energy

AUSTIN ENERGY

10/28/2011

Date

By

NOTE:  
IN ACCORDANCE WITH F.I.R.M. FEDERAL  
INSURANCE ADMINISTRATION FLOOD  
HAZARD BOUNDARY MAPS, THIS LOT  
IS NOT WITHIN A SPECIAL FLOOD  
HAZARD AREA.  
MAP: 46453C0645 H  
EFFECTIVE DATE: September 26, 2009

SURVEYORS NOTE: PREPARED WITHOUT BENEFIT OF  
TITLE REPORT. THERE MAY BE OTHER CONDITIONS  
AND / OR EASEMENTS THAT AFFECT THE SUBJECT  
TRACT OF WHICH I AM UNAWARE.

SCALE 1" = 20 FEET

W.O. # 11-9-5

LEGAL: LOT 22  
SUBDIVISION: COUNTRY CLUB TERRACE  
STREET: 1009 E. 43rd STREET  
REFERENCE: NATION/BUDDO

VOLUME 3, PAGE 323  
COUNTY: TRAVIS  
SURVEY FOR: RACHEL NATION AND NICHOLAS BUDDO;  
THE LIEN HOLDERS AND/OR THE OWNERS OF THE PREMISE

STATE OF TEXAS COUNTY OF WILLIAMSON  
THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY  
DESCRIBED HEREON AND IS CORRECT, AND THAT THERE ARE NO DISCREPANCIES, CONFLICTS, SHORTAGES IN THE AREA, BOUNDARY  
LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, VISIBLE UTILITY LINES, OR ROADS IN PLACE, EXCEPT  
AS SHOWN HEREON AND SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, EXCEPT AS SHOWN  
HEREON. USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS  
NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.

**CEN-TEX**

CEN-TEX SURVEYING COMPANY  
LAND SURVEYING / LAND PLANNING  
503 S. Lake Creek Drive  
Round Rock, TX 78681  
(512) 473-8600 - Fax (512) 248-1125  
wklattenhoff@earthlink.net

Sept 17, 2011  
DATE

*Weldon Klattenhoff*  
WELDON KLATTENHOFF # 4075  
REGISTERED PUBLIC SURVEYOR

5928.

6021-  
TCA

W.O. 11-9-5



David Cancialosi <david@dciaustin.com>

---

## 1009 E 43rd St

---

Mars, Keith <Keith.Mars@austintexas.gov>

Fri, Sep 30, 2011 at 12:16 PM

To: "Mars, Keith" <Keith.Mars@austintexas.gov>

Cc: Permit Partners <david@permit-partners.com>, "Mars, Keith" <Keith.Mars@austintexas.gov>, nick buddo <nick.buddo@gmail.com>, rachel nation <rachel.nation@gmail.com>, "Mitchell, Amber" <Amber.Mitchell@austintexas.gov>, "McDonald, John" <John.McDonald@austintexas.gov>

All,

The subject tree is a Live Oak likely greater than 24 inches in diameter, thus it is considered a heritage tree. It does appear parking is not an option within the critical root zone primarily due to expected excavation for the curb cut, apron, and parking surface. However, if an engineering solution is available that meets code preservation requirements then we can explore options.

Keith

Sent from my iPhone

[Quoted text hidden]

---





Address **Bennett Avenue / East 43rd Street**

Address is approximate

**Save trees. Go green!**

Download Google Maps on your  
phone at [google.com/gmm](http://google.com/gmm)



David C. Cancialosi, Agent for property owner  
Site address: 1009 E 43<sup>rd</sup> St  
Austin, Texas 78751  
October 17, 2011

City of Austin Board of Adjustment Commissioners

Dear Commissioners:

This letter is a formal request to consider Special Exceptions for property located at 1009 E. 43<sup>rd</sup> St.

Per city of Austin Ordinance 20110526-098, the Board of Adjustment is authorized to address minor setback issues existing on or before adoption of the current zoning code, adopted March 1, 1986. Further, this ordinance allows the Board to grant a special exception for setback violations existing for at least 15 years.

Representatives from the City of Austin Code Compliance Legal and Investigations as well as the Residential Review Department have determined that this site meets the criteria for the 15 year amnesty.

The request before you is to allow the property owner to maintain the following encroachments:

- ✓ *Special Exception to allow rear setback of 5.35' for Two Family dwelling unit*
- ✓ *Special Exception to allow street side yard setback of 4.5' for exterior stairs / uncovered deck*
- ✓ *Special Exception to allow interior side yard setback of 2.5' for an exterior water heater unit*
- ✓ *Special Exception to allow rear setback of 5.35' for an exterior water heater unit*
- ✓ *Special Exception to allow side setback of 1' for a portion of the primary structure's front façade*

These encroachments have been in place for approximately 25 years or more.

In terms of history, per discussions with the prior owner, the two family dwelling unit was converted by him in the mid-1980's. At that time a permit was issued by the city to reroof the primary structure and garage. It is believed that the current exterior stairs and uncovered deck were also added at that time in order to accommodate an attic conversion to living space. Records from long-time surrounding property owners indicate the attic conversion was created to accommodate a small living space for the previous owner's elderly parents. Currently, TCAD reflects the space as a 'half floor'. Until recently this space was used as a third rental space, but has been converted into an office / studio use in order to comply with recent Code Enforcement actions.

After thorough research, we believe the current owners have legal standing to maintain the third unit via the city's traditional amnesty program as it would meet all criteria for approval. In 2004 this lot was rezoned from GR to SF3 via the Hancock Neighborhood Plan. Thus, a 3<sup>rd</sup> unit was allowed at the time of installation in the mid-1980's. However, the owners have chosen not to pursue Amnesty for the third unit, but rather maintain a non-adversarial relationship by complying however they can, as fast as they can, with city enforcement actions.

Moreover, it is believed the two exterior water heater units were added during the mid-1980's as well.

The side setback encroachment is a portion of the primary structure's front façade that has been in place since original construction 1938.

The two family dwelling unit has been in use since the mid-1980's. It was occupied by the owner's son at that time while he attended UT. Since its conversion, it has always been a secondary dwelling unit and nothing else. The current owners bought the property from the original owner's son in it's current state.

We believe the city of Austin Code Compliance Department, acting on a single written complaint from an individual who does not live in the Hancock neighborhood, has been overzealous and arbitrary in their enforcement of applicable regulations. Upon initial visit to this site, a Code Enforcement assistant division manager required the owner to evict the tenant of the two family dwelling unit in 48 hours or less – without even inspecting the interior of the unit! It should be noted that code enforcement simultaneously visited four of the owner's properties at the same time in a single day. To say that that the property owner was singled out is an understatement.

Determined to be a good neighbor and citizen of Austin, the owners have bent over backward to comply with very strict timelines placed upon them by enforcement staff. After several meetings with city management, the owners are left with no other remedy but the recently adopted Amnesty Ordinance. In fact, code compliance management recommended this as a viable remedy given the evidence supporting the owner's claims the encroachments (and uses) have been in place for many years.

Yes, this property is used as a short term rental, but we ask that the Board consider the request for setback encroachments at face value. We believe given the recent buzz about short term rentals, city code enforcement staff over-reacted and was initially unwilling to offer any reasonable time to effectively deal with several complicated issues.

As such, the owners have shown their willingness to quickly react to the city's demands by seeking the proper permit to return the 3<sup>rd</sup> unit to an office, to meet with staff at anytime, anywhere, and ultimately present the aforementioned requests to the Board in hopes of maintaining the pre-existing site conditions. There is no intention to ever increase the degree of setback encroachments.

Should the Board grant this request it is our opinion that their decision would not allow a property to be used in a manner that alters the character of the surrounding area. The Hancock neighborhood is littered with dozens of secondary apartments and accessory units. The properties along E. 43<sup>rd</sup> St. alone have a healthy mixture of accessory structures or two family dwelling units currently in place, most of which appear to have a range of zoning setback issues. Many properties in this neighborhood have encroachment issues due to the age of the original structures, size of the inner city lots, progressive accessory uses consistent with current lifestyle trends, combined with increased regulations the City has enacted over the years.

The current setback encroachments will not impair the use of adjacent properties. The rear setback encroachment abuts a commercial parking lot. The street side yard encroachment does not reflect visibility or other aesthetic issues.

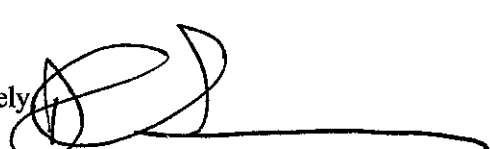
Further, granting the aforementioned request will not result in a special privilege inconsistent with other properties in the area. As mentioned, several properties in the area reflect a combination of primary and secondary uses, various setback issues, and on-street parking due to the size of original garages and driveways. The current use and slight zoning encroachments are completely in keeping with the surrounding properties.

Should the Board approve these requests, the owners intend to continue using the site as a rental property – as well as continue paying the required Hotel Motel Tax, which they've been doing so since purchasing the property in 2007.

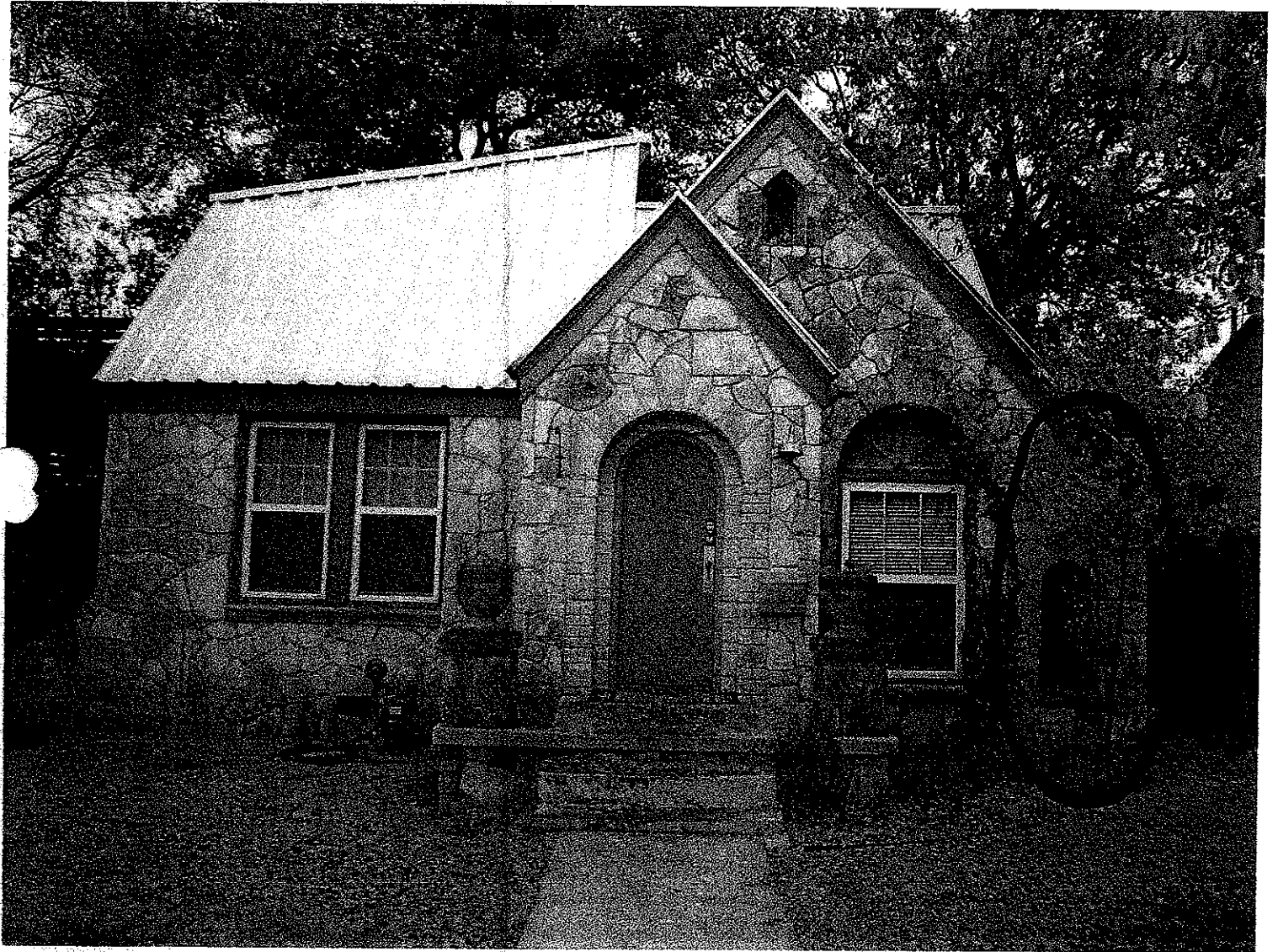
Please refer to the maps, pictures, and letters of support provided in your packet for more information.

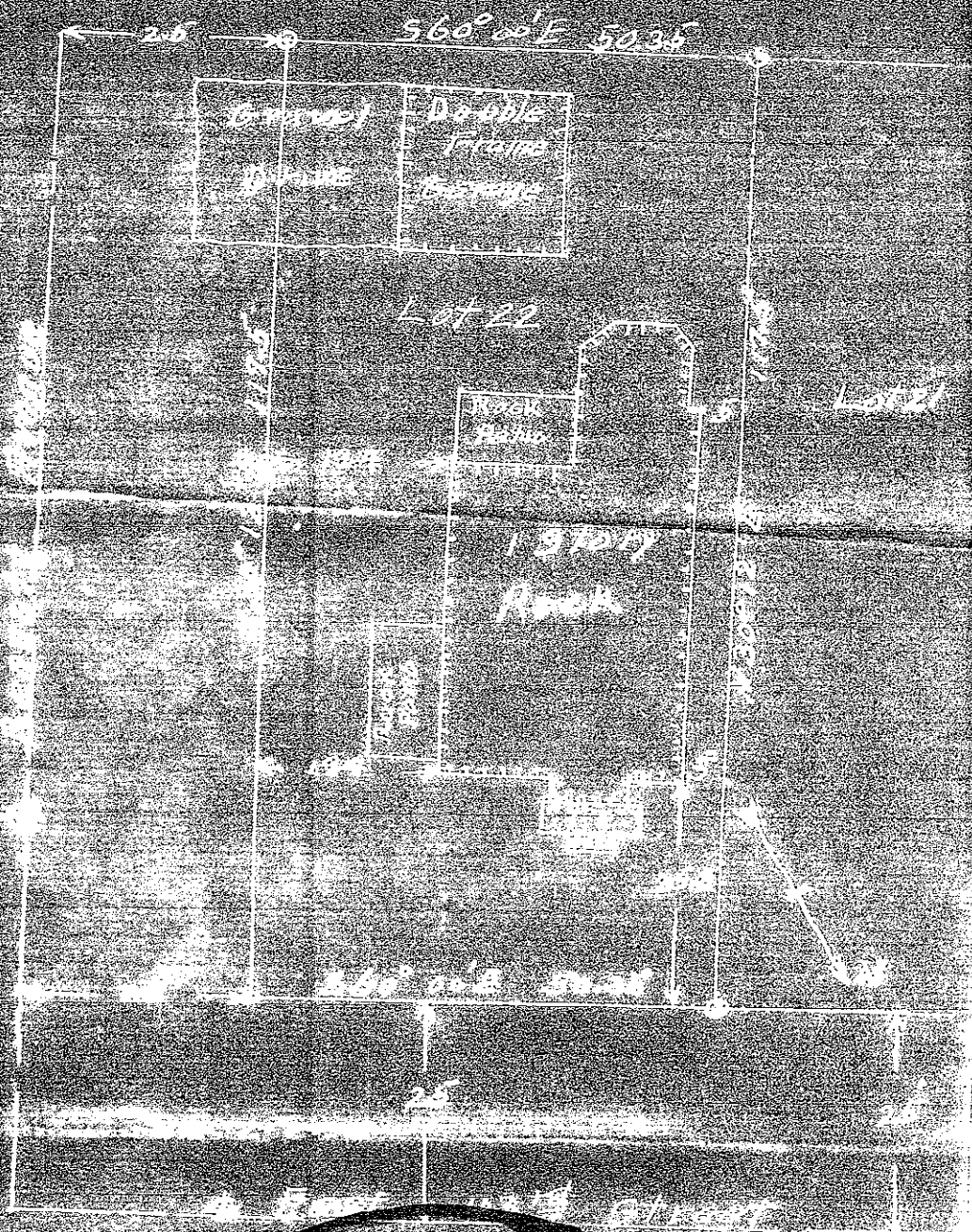
Thank you for your thoughtful consideration of this case.

Sincerely,



David C. Cancialosi, Agent for the owner and applicant



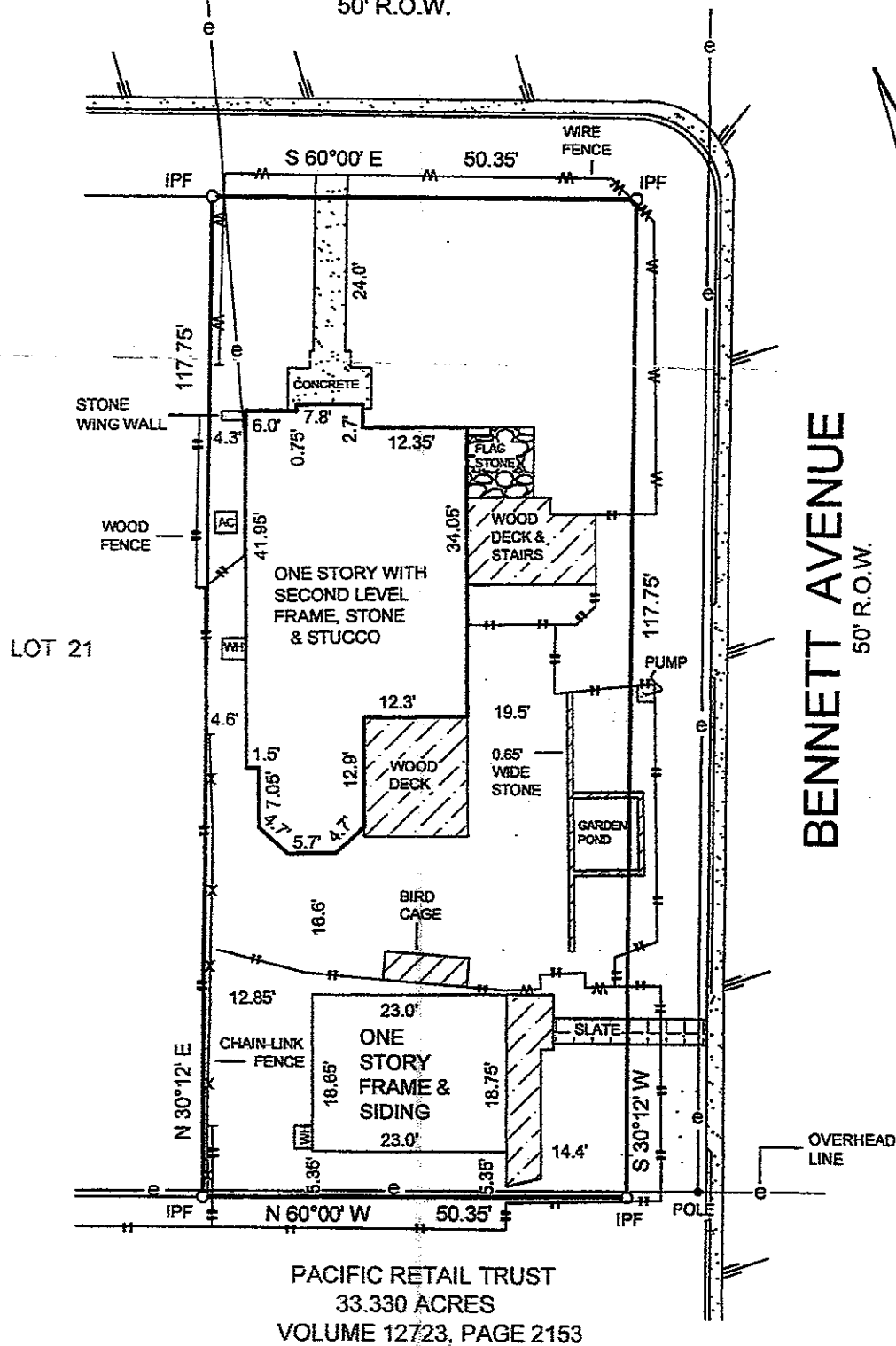


DEC 15, 1942

This is a plan of a portion of Lot 22, showing a garage, a house, a creek, and a front street. The plan is drawn to scale and shows the location of the buildings and the creek. The dimensions of the lot and the buildings are given. The plan is approved by the Board of Health and the Board of Public Works.

Approved by Board of Health  
Approved by Board of Public Works

**E. 43rd STREET** ( E. FORTY THIRD STREET per PLAT )  
50' R.O.W.



NOTE:  
IN ACCORDANCE WITH F.L.R.M. FEDERAL  
INSURANCE ADMINISTRATION FLOOD  
HAZARD BOUNDARY MAPS, THIS LOT  
IS NOT WITHIN A SPECIAL FLOOD  
HAZARD AREA.

SURVEYORS NOTE: PREPARED WITHOUT BENEFIT OF  
TITLE REPORT. THERE MAY BE OTHER CONDITIONS  
AND / OR EASEMENTS THAT AFFECT THE SUBJECT  
TRACT OF WHICH I AM UNAWARE.





Austin History Center, Austin Public Library PICA 12873

Aerial view of the "back nine" of the Austin Country Club/ Hancock Golf Course prior to the construction of the Hancock Shopping Center. At the top right corner of the photograph is IH-35. Photo courtesy of the Austin History Center.

UN-  
retained  
photo...  
used to  
be alleys  
to  
access golf  
course.

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.







Refresh Map

1"= 75'

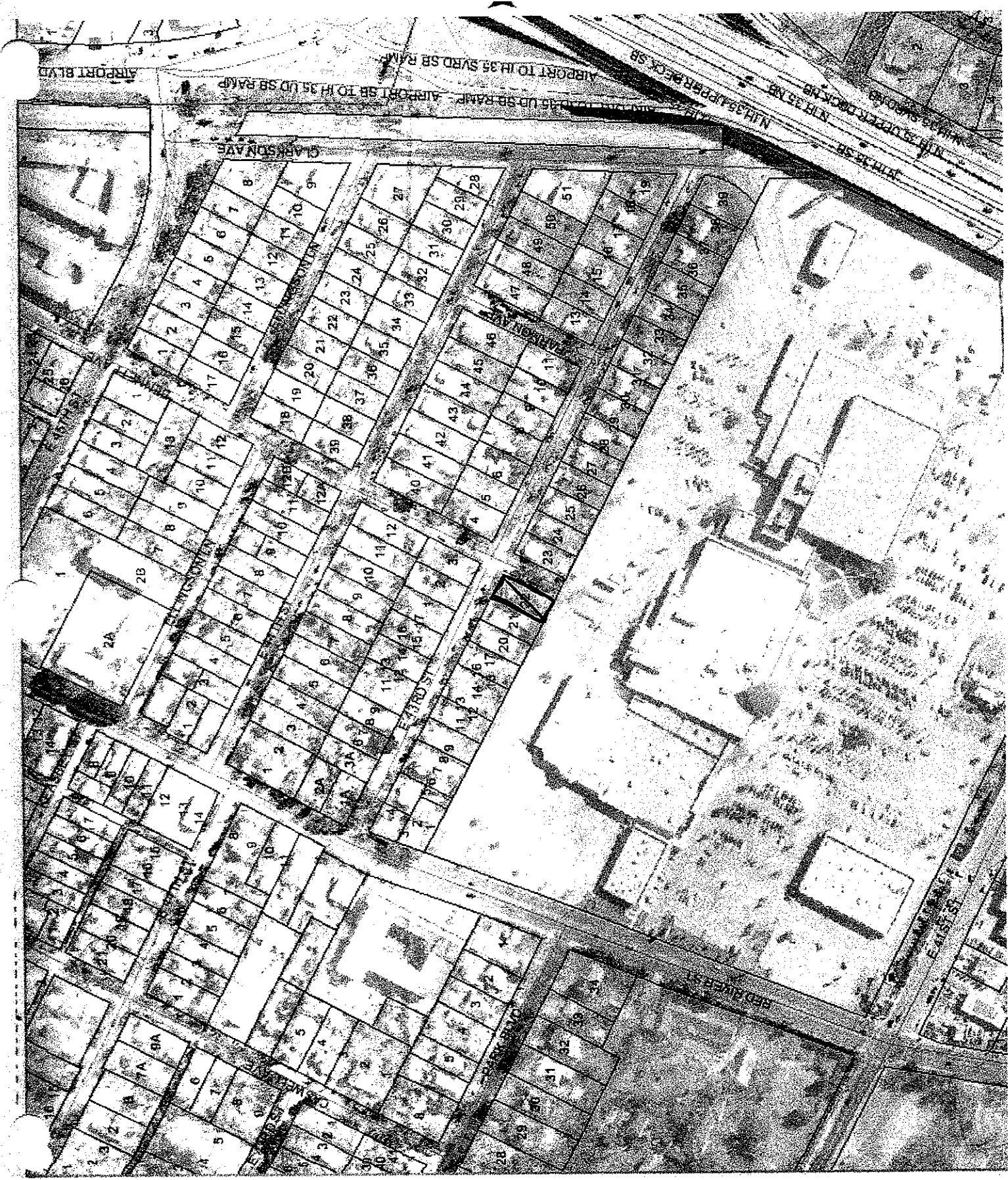
LAYERS

Visible Active Description

- ☐ TCAD Faces
- ☐ City Grid
- ☒ Watersheds
- ☒ University
- ☒ Neighborhood
- ☒ Association
- ☒ Annexation
- ☒ Zoning Profile
- ☐ Overlays
- ☐ Austin Watershed
- ☐ Regulation Air
- ☐ Smart Growth
- ☐ Fully-developed
- ☐ Floodplains (studied)
- ☐ FEMA Floodplains
- ☐ Watershed
- ☐ Classification
- ☐ Health and Safety
- ☐ Limited Purpose
- ☒ Jurisdiction
- ☐ Counties
- ☒ Color Images 2003
- ☐ Color Infrared Images 2003
- ☐ Color Infrared Images 2000
- ☐ Black and White Images 1997

Austin City Connection - The Official Web Site of the City of Austin |  
Development Process | Watershed Protection | Zoning Process |  
Case Number Guide | Contact Us: GIS Comments or 512-974-4357.  
Legal Notices | Privacy Statement | Local Disclaimer  
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P.O. Box 1088, Austin, TX 78767 (512) 974-2000







Mrs. Charlotte Stride

1009  
~~1011~~ East 43rd.

81-b

22

Country Club Terrace

Rock veneer res. and box garage

227n - 5/24/38

Charlott Stride

1009 East 43rd St

253

-

22 -

22

-

Country Club Terrace

Frame addn to rear o f Res.

21272 - 2-17-41



## FOLDER DETAILS

Section 25-11-94 Expiration and extension of permit (Active Permits will expire 180 days at 11:59:59 pm after date of last inspection posted). If you allow this permit to expire you will be required to submit a new application & pay new fees.

Permit/Case	Reference File Name	Description	Sub Type	Work Type	Project Name	Status	Application Date	Issue Date	Expiration Date
1986-002504 BP	8615718	Restructure Gable Roof & Reroof Exist Res And Garage	R- 435 Renovations/Remodel	Remodel	1009 43 Street East A .00000	Final	Aug 1, 1986	Aug 1, 1986	Oct 15, 1986

Related Folders: No

## FOLDER INFO

Information Description	Value
Smart Housing	No
Total Job Valuation	2000
Building Inspection	Yes
Electric Inspection	No
Mechanical Inspection	No
Plumbing Inspection	No
Energy Inspection	No
Driveway Inspection	No
Sidewalks Inspection	No
Environmental Inspection	No
Landscaping Inspection	No
Water Tap Inspection	No
Sewer Tap Inspection	No
On Site Sewage Facility Inspection	No
Fire Inspection	No
Health Inspection	No
Flood Plain	OK
Number of Units	1
Certificate of Occupancy to be Issued	No
Usage Category	435

## PROPERTY DETAILS

Number	Pre.	Street	Street Type	Dir	Suite Type	Suite Number	City	State	Zip	Legal Desc
1009	E	43RD	STREET				AUSTIN	TX	78751	Lot: 22 Block: Subdivision: COUNTRY CLUB TERRACE

Lot: 22 Block: Subdivision: COUNTRY CLUB TERRACE

## FOLDER FEE

Fee Description	Fee Amount	Balance
Building Permit Fee	\$35.00	\$0.00

## PROCESSES AND NOTES

Process Description	Status	Schedule Date	Start Date	End Date	Assigned Staff	# of Attempts
112 Final Building	Pass			Oct 15, 1986		1

Owner's Name **DBM INTERNATIONAL LLC****Property Details**Mailing Address 2903 DOVER PL  
AUSTIN, TX 78757-

Location 1009 E 43 ST 78751

Legal LOT 22 OLT 18 DIV C COUNTRY CLUB  
TERRACE

Deed Date 01262011

Deed Volume

Deed Page

Exemptions

Freeze Exempt F

ARB Protest T

Agent Code 0

Land Acres 0.1382

Block

Tract or Lot 22

Docket No. 2011014793TR

Abstract Code S03400

Neighborhood Code Z9440

**Value Information****2011 Certified**

Land Value 225,000.00

Improvement Value 57,300.00

AG Value 0.00

AG Productivity Value 0.00

Timber Value 0.00

Timber Productivity Value 0.00

Assessed Value 282,300.00

10% Cap Value 0.00

Total Value 282,300.00

Data up to date as of 2011-09-19

**Value By Jurisdiction**

Entity Code	Entity Name	2010 Tax Rate	Assessed Value	Taxable Value	Market Value	Appraised Value
0A	TRAVIS CENTRAL APP DIST		282,300.00	282,300.00	282,300.00	282,300.00
01	AUSTIN ISD	1.227000	282,300.00	282,300.00	282,300.00	282,300.00
02	CITY OF AUSTIN	0.457100	282,300.00	282,300.00	282,300.00	282,300.00
03	TRAVIS COUNTY	0.465800	282,300.00	282,300.00	282,300.00	282,300.00
2J	CENTRAL HEALTH	0.071900	282,300.00	282,300.00	282,300.00	282,300.00
68	AUSTIN COMM COLL DIST	0.095100	282,300.00	282,300.00	282,300.00	282,300.00

**Improvement Information**Improvement ID  
174543

State Category

Description

1 FAM DWELLING

**Segment Information**

Imp ID	Seg ID	Type Code	Description	Class	Effective Year Built	Area
174543	202877	1ST	1st Floor	WW4-	1933	1,018
174543	202878	1/2	Half Floor	WW4	1933	384
174543	818227	011	PORCH OPEN 1ST F	*4-	1933	28
174543	818228	031	GARAGE DET 1ST F	WW4-	1933	360
174543	818229	251	BATHROOM	**	1933	1

**ORDINANCE NO. 040826-59**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP TO ADD A NEIGHBORHOOD PLAN COMBINING DISTRICT TO THE BASE ZONING DISTRICTS ON APPROXIMATELY 541.38 ACRES OF LAND GENERALLY KNOWN AS THE HANCOCK NEIGHBORHOOD PLAN AREA AND TO CHANGE THE BASE ZONING DISTRICTS ON 184 TRACTS OF LAND.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to add a neighborhood plan (NP) combining district to each base zoning district within the property and to change the base zoning districts on 184 tracts of land within the property described in Zoning Case No.C14-04-0023, on file at the Neighborhood Planning and Zoning Department, as follows:

Approximately 541.38 acres of land in the City of Austin, Travis County, Texas, more particularly described and identified in the attached Exhibit "A" incorporated into this ordinance, Save and Except the following tracts, (the "Property")

Tract 563A                      4427 and 4429 Duval Street; and

Tract 2104A                    3403, 3405, and 3407 Hampton Rd., and  
3406 Red River Street,

generally known as the Hancock neighborhood plan combining district, locally known as the area bounded by Duval Street on the west, 45<sup>th</sup> Street on the north, IH-35 on the east, and Dean Keeton Street on the south, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

Except as provided in this ordinance, the existing base zoning districts and conditions remain in effect.

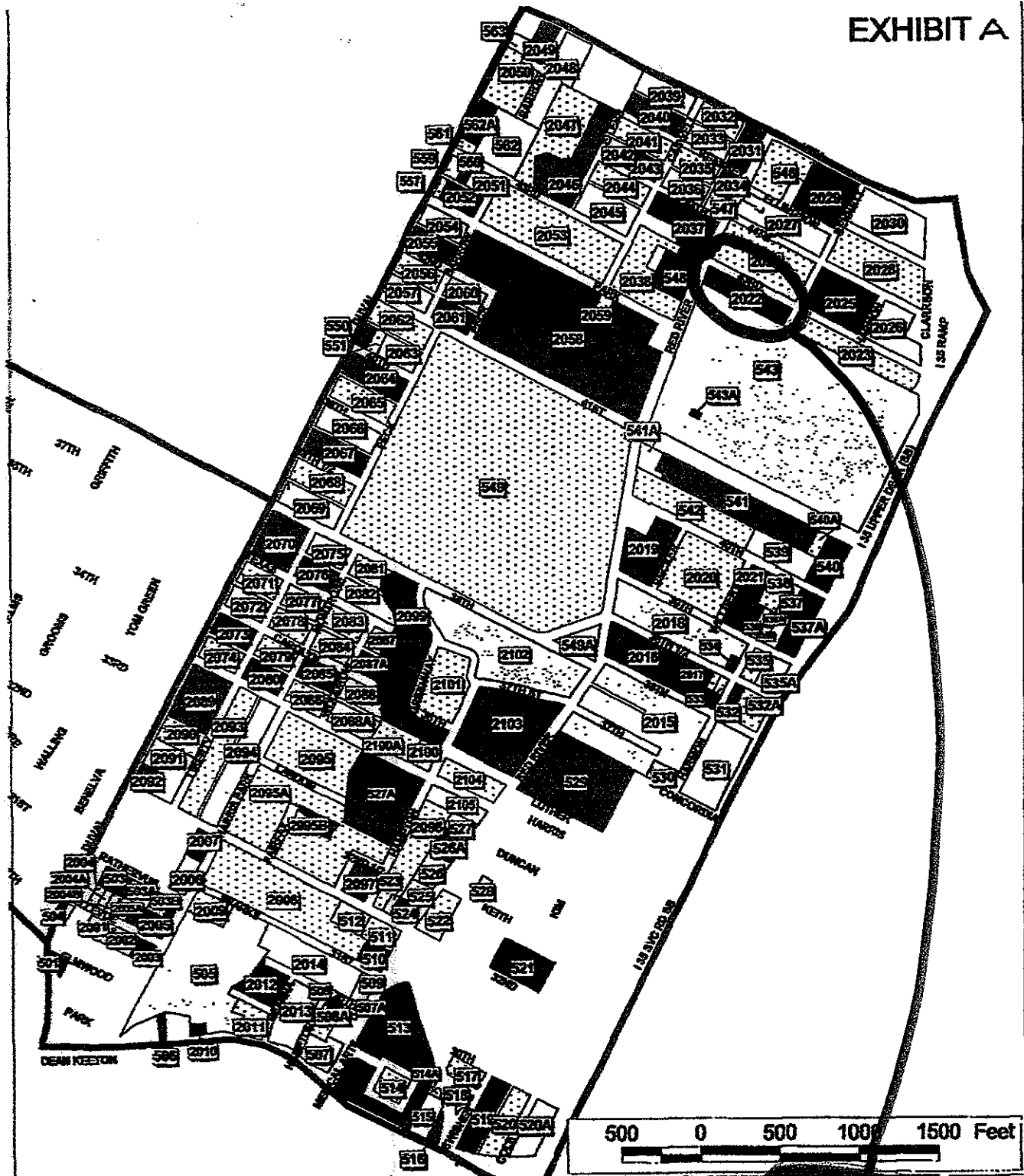
**PART 2.** The base zoning districts for the 184 tracts of land are changed from family residence (SF-3) district, family residence-historic (SF-3-H) combining district, single family residence small lot (SF-4A) district, multifamily residence low density (MF-2) district, multifamily residence medium density (MF-3) district, multifamily residence moderate high density (MF-4) district, multifamily residence high density (MF-5) district,



TRACT	ADDRESS	FROM	TO
2002	601, 603, 605 BELLEVUE PL	SF-3	SF-3-CO-NP
2003	607, 609 BELLEVUE PL	SF-3	SF-3-CO-NP
2004	504 BELLEVUE PL	SF-3	SF-3-CO-NP
2004A	506 BELLEVUE PL	SF-3-H	SF-3-H-CO-NP
2004B	508 BELLEVUE PL	SF-3	SF-3-CO-NP
2005	604, 606, 608, 610 BELLEVUE PL; 3006 HARRIS PARK AVE; 611 RATHERVUE PL	SF-3	SF-3-CO-NP
2005A	600 BELLEVUE PL	SF-3-H	SF-3-H-CO-NP
2006	3102, 3104, 3106 HARRIS PARK AVE; 610 RATHERVUE PL	SF-3	SF-3-CO-NP
2007	3110 HARRIS PARK AVE	SF-3-H	SF-3-H-CO-NP
2008	806, 808, 810, 812, 814, 816 E 31ST ST; 703, 705, 707, 709, 711, 713, 715, 717, 719, 725, 801, 803 E 32ND ST; 3103, 3103, 3111 HARRIS PARK AVE; 702, 706, 708, 712, 716, 718, 720, 722, 724 SPARKS AVE	SF-3	SF-3-CO-NP
2009	701, 705, 707, 709 SPARKS AVE	SF-3	SF-3-CO-NP
2010	714 E DEAN KEETON ST	SF-3	SF-3-CO-NP
2011	802, 804, 806 E DEAN KEETON ST; 805, 807, 809 LEONARD ST	SF-3	SF-3-CO-NP
2012	807, 809 E 30TH ST; 2908, 2914 BEANNA ST; 800, 802, 804, 808 LEONARD ST	SF-3	SF-3-CO-NP
2013	817 E 30TH ST; 2903, 2905, 2907, 2909, 2911, 2913 2915 BEANNA ST; 810 E DEAN KEETON ST; 2900, 2902, 2904, 2910, 2914 HAMPTON RD	SF-3	SF-3-CO-NP
2014	806, 808, 810, 812, 814, 816, 820, 822, 824 E 30TH ST; 807, 809, 811, 813, 815, 817, 819 E 31ST ST; 721, 723 SPARKS AVE	SF-3	SF-3-CO-NP
2015	900, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 923 E 37TH ST; 901, 903, 905, 907, 909, 913, 915, 1001, 1003, 1005, 1007 E 38TH ST; 3504, 3506, 3700, 3702, 3704, 3706, 3708, 3710 HARMON AVE; 3511 RED RIVER ST	SF-3	SF-3-CO-NP
2016	904, 906, 908, 910, 912, 1000, 1002, 1004, 1006, 1008, 1010, 1012 E 38TH ST; 909, 913, 915, 917, 1001, 1005, 1007, 1009 E 38TH 1/2 ST; 3801, 3803, 3805 RED RIVER ST	SF-3	SF-3-CO-NP
2017	1011 E 38TH 1/2 ST	SF-4A	SF-4A-CO-NP
2018	906, 908, 910, 912, 914, 916, 1000, 1002, 1004, 1006, 1008, 1010 E 38TH 1/2 ST; 907, 911, 913, 915, 917, 919, 921, 923, 925, 1001, 1003, 1005, 1007 E 39TH ST; 3809, 3813, 3817 RED RIVER ST	SF-3	SF-3-CO-NP
2019	907 E 40TH ST; 3900, 3902, 3904, 3906, 3908, 3912, 3914 BECKER AVE; 3901, 3903, 3905, 3907, 3909 RED RIVER ST	SF-3, MF-3	SF-3-CO-NP
2020	912, 914, 916 E 39TH ST; 917, 919, 921 E 40TH ST; 3901, 3903, 3905, 3907, 3909, 3911, 3913, 3915 BECKER AVE; 3902, 3906, 3908, 3910, 3912, 3914 WILLBERT RD	SF-3	SF-3-CO-NP
2021	1004 E 39TH ST; 3901, 3905, 3907, 3909, 3911, 3913, 3915 WILLBERT RD	SF-3	SF-3-CO-NP
2022	903, 905, 907, 909, 911, 1001, 1003, 1005, 1007 E 43RD ST; 4211, 4213 RED RIVER ST	SF-3 GR	SF-3-CO-NP
2023	1011, 1013, 1015, 1017, 1019, 1021, 1023, 1025, 1027, 1029, 1031, 1033, 1035, 1037, 1039 E 43RD ST	SF-3	SF-3-CO-NP

general retail

# EXHIBIT A



## Hancock Neighborhood Plan Combining District: Rezonings Approved 8-26-04

Case C14-04-0023



City of Austin  
Neighborhood Planning and Zoning Department



### Legend

Properties with  
proposed  
zoning changes

999

Tract Number

C. The maximum impervious cover is 80 percent.

D. Vehicular access from the tracts to Red River Street and Dean Keeton Street is prohibited. All vehicular access to the Property shall be from other adjacent public streets or through other adjacent property.


Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the respective base districts and other applicable requirements of the City Code.

**PART 8.** This ordinance takes effect on September 6, 2004.

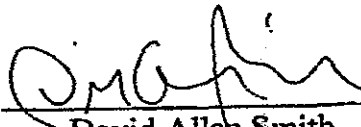
**PASSED AND APPROVED**

August 26, 2004


§  
§  
§  
§

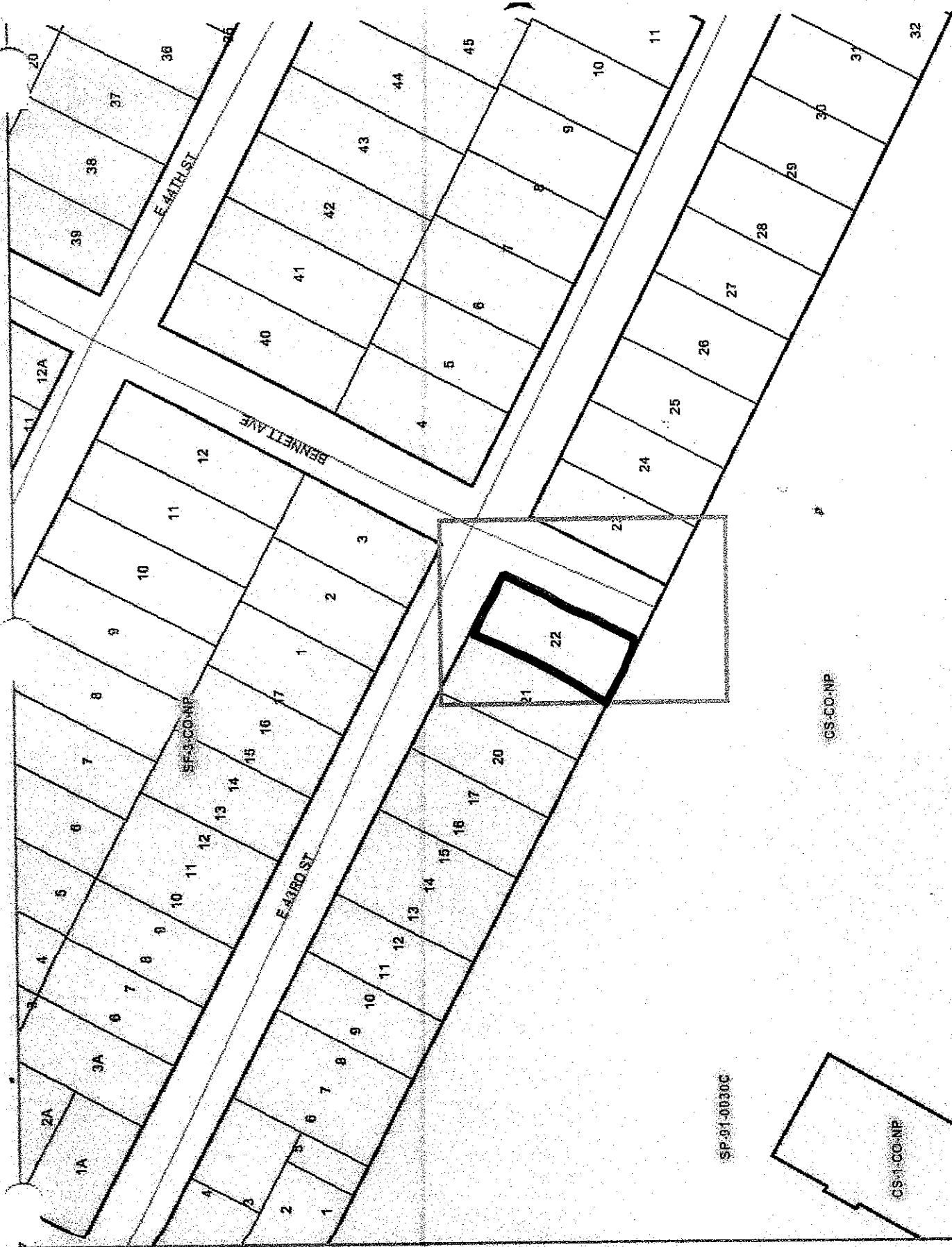
  
Will Wynn  
Mayor

APPROVED:

  
David Allan Smith  
City Attorney

ATTEST:

  
Shirley A. Brown  
City Clerk



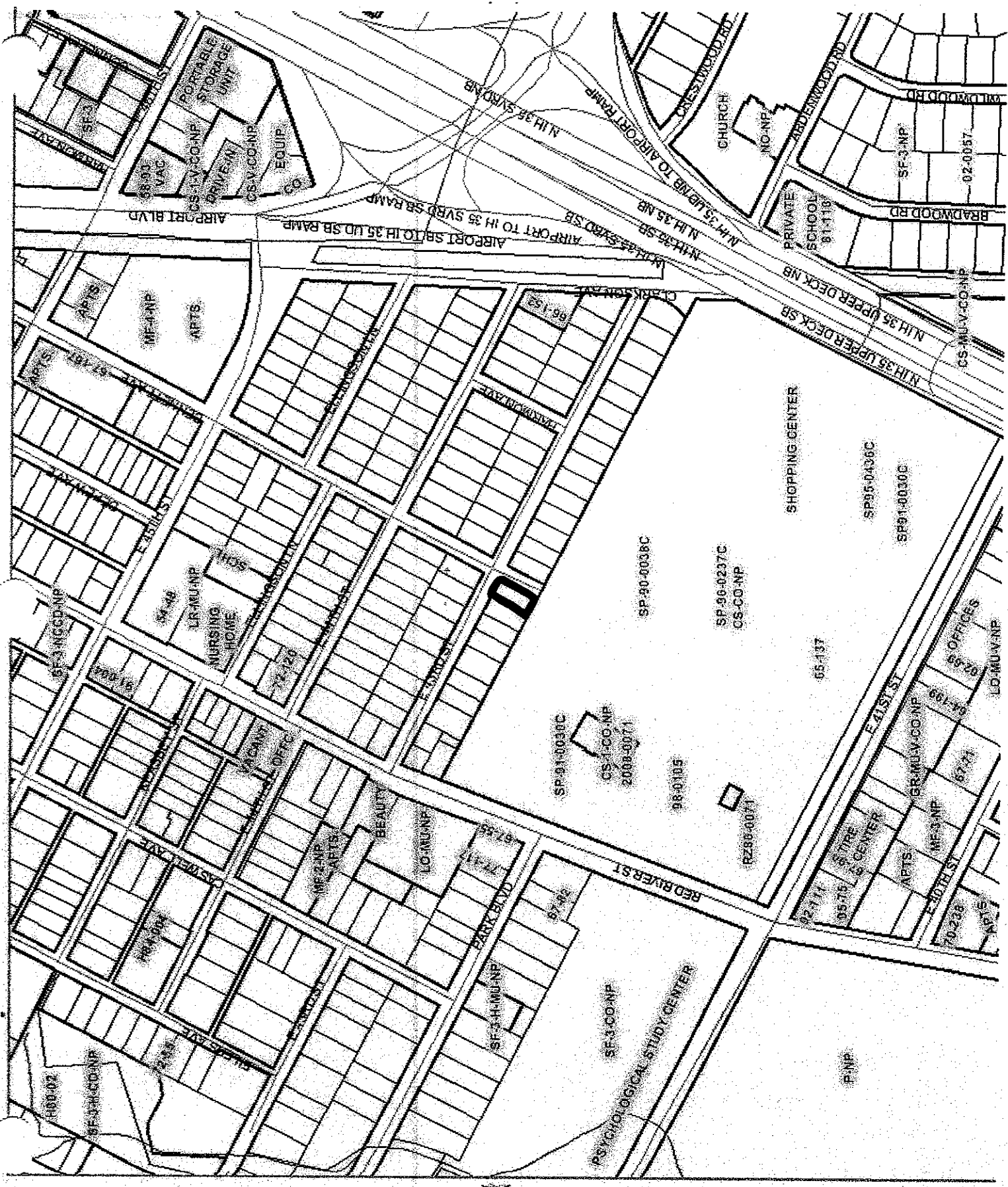
CS-CO-NP

SP-01-0030C

CS-1 CO-NP

2008-0071

SP-90-0038C



PORTABLE STORAGE UNIT  
DRIVE-IN  
CS-VY CONP  
VAC  
SF-30-0038C  
EQUIP  
CS-VY CONP

AIRPORT SB TO IH 35 SB RAMP  
AIRPORT TO IH 35 SB RAMP  
N.H. 35 SB  
N.H. 35 SB  
N.H. 35 SB  
N.H. 35 SB

PRIVATE SCHOOL  
81-118

N.H. 35 UPPER DECK SB  
N.H. 35 UPPER DECK NB  
CS-MUV-CONP  
02-0057

SHOPPING CENTER

SP-30-0038C  
SP-36-0237C  
CS-CO-NP

SP-31-0030C

CS-1-CO-NP  
2008-0071

98-0105

RZ96-0071

65-137

65-135

67-01

67-01

67-01

67-01

67-01

67-01

PSYCHOLOGICAL STUDY CENTER

P-NP

H00-02

SF-30-0038C

SF-30-0038C

SF-30-0038C

SF-30-0038C

SF-30-0038C

SF-30-0038C

SF-30-0038C

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SF-30-0038C

SF-30-0038C

Watershed Protection Development Review

2 Watershed LP ?

DEVELOPMENT TOOLS

Review Cases

Zoning Profile

Geo Profile

Neighborhood

COA Controls

Base Map

Zoning Map

City Grid

TCAD Search

TCAD Profile

XY Converter

VIEWER TOOLS

Address

Zoom In

Zoom Out

Citywide View

Previous View

Pan

Identify

Measure

Clear Graphics

Print



Refresh Map

1" = 75'

LAYERS

Visible Active Description

- ☐ TCAD Parcels
- ☐ City Grid
- ☒ Watersheds
- ☒ University
- ☒ Neighborhood
- ☒ Association
- ☒ Air-season
- ☒ Zoning Profile
- ☐ Overlays
- ☐ Austin Watershed
- ☐ Regulation Areas
- ☐ Smart Growth
- ☐ Fully-developed
- ☐ Foodplans (studied)
- ☐ FEMA Foodplans
- ☐ Watershed
- ☐ Classification
- ☐ Health and Safety
- ☐ Limited Purpose
- ☒ Jurisdiction
- ☐ Counties
- ☐ Color Images 2003
- ☐ Color Infrared Images 2003
- ☐ Color Infrared Images 2000
- ☒ Black and White Images 1997

Austin City Connection - The Official Web Site of the City of Austin  
Development Process | Watershed Protection | Zoning Requirements  
Case Number Guide | Contact Us | GIS Comments or 512-974-4357  
Legal Notices | Privacy Statement | Local Disclaimer  
© 2003 City of Austin, Texas. All Rights Reserved.  
P.O. Box 1088, Austin, TX 78767 (512) 974-2000





September 6, 2011

I grew up near the rental property located at 1009 E43rd Street in Austin, Texas. My father owned Bashara Produce for 50 years. We lived at 4503 Red River not far from the property on 43rd Street.

I became close friends with Elmer Olle Jr. We were 8 years old at that time in 1943. I have been in and around that home until we graduated together from Austin High School in 1953.

My parents home was located close enough for me to be at the Olle home frequently. I am completely familiar with the history of the home.

The current owners did not build the two apartments, they were created for the original owners elderly parents to use by caregivers and for housing grandkids that attended UT. The elder Olle's lived and died in this home at an old age from the late 1930's until the 1980's.

The current owners are delightful people and should be commended for making Austin more livable. I moved to San Antonio in 1959 and on many occasions visited Austin for UT football games, funerals, weddings and other events and often found it impossible to find a nice place to rent.

This location transformed a junky unkept property to a beautiful, comfortable, home-like place that is immaculate inside and professionally landscaped.

Any normal person would be pleased to live near this attractive well maintained rental property.

Richard Bashara  
basharatx@sbcglobal.net



September 4, 2011

To whom it may concern:

I've lived on East 44th for 14 years, and I well remember the condition of the house before they redid it. There were usually 10 - 12 non-working cars left on the street for months on end, and worst of all, an RV permanently parked in the back yard. I say "permanently" because the wooden privacy fence had been built around the RV, permanently enclosing it in the yard. I was told that someone was living in the RV. I could smell raw sewage as I walked by.

Carol Pirie  
1006 E. 44th



Ms Reynolds:

I am one of the neighbors to whom you sent the letter (copy of p.1 attached) regarding guest house accommodations on 43rd Street, near Hancock Plaza. I believe you have seriously overreacted and would like to let you know what it has been like to live near the house in question.

Before the current owner took possession, this house and two others on this street were owned by one of Austin's most notorious slum-lords. The guest house in question was dilapidated, the owner used the street as a used-car lot, had an eyesore of a trailer parked on the property and was the residence for a series of undesirables - one man stole from the neighbors, a couple panhandled door-to-door, and others were unseemly and unwanted. To the rest of us on the street, the house - a beautiful structure which was deteriorating - was a source of discomfort, unease and frustration. When the property was sold, all of us were extremely pleased.

The current owner has put a tremendous amount of time, effort and extremely high-quality work into this house. It is now a very attractive property, well-maintained and beautifully landscaped. The people who stay there are generally delightful visitors from far and wide, and the property is consistently maintained.

The owner is a very kind, friendly man who has been extremely cordial and approachable. I don't know if you took the time to speak directly to him before you started your campaign. Your effort seems to be particularly harsh and punitive. If you are concerned about elderly relatives being safe, that seems like a fairly easy issue to ascertain. The structure with the loft and deck has been a part of the property since I moved here 12 years ago and has been completely renovated. I know that you want to see permits, et al, but I don't believe your actions were commensurate with your concerns. It appears you would prefer to have the owner punished financially and legally rather than have the opportunity to address your questions.

If we are all a bit kinder, more communicative and open-minded toward one another, the world will improve. You have to start somewhere.

43rd Street Resident

Mayor Lee Leffingwell and the Austin City Council  
301 W. 2nd Street 2nd Floor

To: Mayor Leffingwell and the Austin City Council  
Regarding the house at 1009 E 43rd St. Austin, TX 78751

I am writing in support of friends of mine - Rachel Nation and Nick Buddo - who have built a business by restoring older houses (often in dreadful shape) - and then renting them short term. I can't speak about the condition of the house at the corner of 43rd and Bennett based on personal knowledge because the restoration there was well underway when I first saw the house. But I can tell you that their own place of residence on Dover was a complete mess when they bought it. If memory serves me, the place was so bad off they had a hard time finding a bank that would lend them the money to undertake the restoration. Among other things, they discovered a long forgotten swimming pool in the back yard that someone had filled in and covered with grass. The pool and backyard have been immaculately restored along with the rest of the house - the whole place looks great.

I did see the house they bought on Whiteway Street (not far from their own place). That house was still very much in the "BEFORE" stage and it was a complete mess - inside and out. Not only that - the entire exterior was painted the most dreadful PINK I've ever seen. The house has since been renovated and restored and now looks like a home that anyone in the neighborhood would be glad to own. The whole plan is to buy a house for less because it's a mess and then restore it and make it available for short term rental. Based on what my 44th Street neighbors have told me regarding the "bad old days" of the place at the corner of Bennett and 43rd, I'd say that the house is now an asset to the neighborhood. And, based on what I know about other houses that they have worked on, I think Rachel and Nick have, in every case, improved the neighborhoods where their houses are located.

I have no idea what motivated one individual to complain so vociferously, but I think that the individual is quite misguided. My email address is: [lcamp@sstx.org](mailto:lcamp@sstx.org). And my phone number is: 512 639 3935. If you have questions, feel free to call or email.

Thank You  
Laura M Camp

September 4, 2011

In regard to 1009 E 43rd street

City of Austin,

I am writing in regard to the ridiculous situation that has occurred to my next door neighbor at 1009 E 43<sup>rd</sup> street. They have been model neighbors since we bought our home next door. They have always kept their property in great shape (better than almost all in the neighborhood), have helped us on numerous occasions personally, have never had people in their home who have been bothersome in any way, and have been an asset to the Hancock community.

They have developed relationships with all of the neighbors and yet, someone who is two miles away with some personal agenda has caused them grief and come to you to tattle on them.

They have been in business for a while now and never been trouble. Are we going to now retro fit some new laws which legislate that they are cause for concern because of a few whackos?

Are we going to shut down the oldest grocery store in Austin on Avenue B in Hyde Park that has been there 100 years and has been a cornerstone of that community because someone has no hobbies and too much free time and must complain about Something?!

We have had MUCH more trouble from the businesses behind us at the Hancock Mall and their patrons throwing things in the yard, break into cars etc. Almost all business is near or in some neighborhood. We need responsible, positive business people in Austin, Texas, and the U.S. now more than ever. Get out of the way and let them be in business! Please!

Jim Goode  
1007 East 43rd Street  
Austin, Texas 78751

1004 East 43<sup>rd</sup> Street  
Austin, Texas 78751

September 4, 2011

Mayor Lee Leffingwell and Austin City Council  
301 W. 2nd St. 2nd Floor  
Austin, Texas 78701

Re: 1009 East 43<sup>rd</sup> Street

Dear Mayor Leffingwell and Austin City Council,

It recently came to my attention while chatting with my neighbors that some of them received a copy of a letter addressed to you complaining about conditions at 1009 East 43<sup>rd</sup> Street. Though I am not one of the complaint letter copy recipients, I feel compelled to write this letter to support the owners of the property because I think that they have been unfairly maligned by persons who do not even live in our neighborhood, much less on our street.

I am the owner of 1004 East 43<sup>rd</sup> Street and have lived here since December 2007. When I first moved into this house, the entire neighborhood considered 1009 East 43<sup>rd</sup> to be a blight on the community. Derelict cars were parked around and in the yard of the property, the tenants occupying the house were of strongly questionable character, and the structure was dilapidated. Since the current owners purchased 1009 East 43<sup>rd</sup>, the property is now what I consider to be the renewal anchor of the block. The structure is well maintained and the yard nicely landscaped. The renters appear to be high class and, what few times I've encountered them, congenial folks.

I am well aware that 1009 East 43<sup>rd</sup> is a short term rental. However, in comparison to the previous usage of the property, the situation there is vastly improved. The owners provided their contact information to surrounding neighbors and implored us to call them if there were ever a problem with any of their tenants. The renters have proved to be quiet to the point of being practically unnoticeable. I have never had a single issue with the property since it became a short term rental. I wish that I could say the same for long term rentals and even some owner occupied homes during my 22 years living in Austin.

Thank you for your attention to this matter. If you have any questions, please feel free to call me at 512-739-6622 or send an email to [george@wilson.name](mailto:george@wilson.name).

Sincerely,

  
George C. Wilson

TO WHOM IT MAY CONCERN!

I UNDERSTAND THERE IS SOME  
NUTTY OLD BIDDY WHO IS CAUSING  
LOTS OF TROUBLE IN MY  
NEIGHBOR. I AM 90 YR. OLD &  
HAVE LIVED IN 8 STATES SO I  
DIDNT JUST RETIRE FROM SOME  
FARM & MOVE HERE.

WHEN MY HUSBAND RETIRED  
FROM TEACHING AT A.M. IN  
KINGSVILLE IN 1986 WE MOVED  
TO THIS HOUSE. THE HOUSE THAT  
ALL THE RUSS IS ABOUT WAS NOT  
TO DESCREABLE & STRANGE  
RENTERS etc. THE UPSTAIRS APT.  
WAS ADDED NOT TO LONG AFTER  
WE MOVED HERE.

I DON'T UNDERSTAND ALL THE  
RUSS ABOUT THREE RENTALS ON  
ONE LOT. THERE ARE SEVERAL  
IN THIS NEIGHBORHOOD. THE  
OLD BIDDY DIDNT RESEARCH  
TO WELL BEFORE BEGAN TO FLAP  
HER BIG MOUTH.

IT WAS A BIG Relief To the  
NEIGHBORS AFTER THE PRESENT  
OWNERS TOOK OVER THEY REDID  
things - CLEANED UP THE PLACE.  
THERE ARE <sup>NO</sup> BUNCH OF CARS - NO  
LOUD PARTYS OR MUSIC. WE  
ARE ALL PLEASED WITH IT JUST  
AS IT IS,

SO IF THESE LANDOWNERS  
HAVE TO GET RID OF THE  
THIRD RENTAL THEN SO SHOULD  
ALL THE OTHERS IN THIS AREA.

THE TROUBLE MAKER NEEDS  
HELP AS SHE SEEMS TO HAVE  
A BIG PROBLAM.

Donna L. Bishop  
1005 E. 43RD ST,

September 6, 2011

Regarding Hancock Guest Cottages in Austin

To Whom It May Concern,

I have known Rachel Nation and Nick Buddo, owners of the Hancock Guest Cottages, these past 9 years through our shared passion for helping the poor in Nicaragua. We have traveled together with the St. Stephen's School group on mission trips and I have been inspired and impressed with the generosity and kindness that Rachel and Nick show to the children in need.

Recently I found I needed lodging for extended family during the holidays. My family stayed at their Hancock Ranch House in Allandale, and I found the property to be very well maintained. I have an 84 year-old elderly mother and she said the home was extremely safe.

Thank God that there is a Hancock Ranch House that I can rely on to house my mother and other family members whenever they come into town to visit. These houses are actually like a real home, not an impersonal and perhaps unsafe hotel room. My family and extended family are so important to me and having them in a place when they are in town where I know they will be comfortable and safe is my top priority. Fortunately, there is a Hancock Ranch House that answers this need.

I know Rachel and Nick very well. I know and have seen how carefully and thoroughly they screen their prospective guests for their rental homes. They make extraordinary and successful efforts to rent to people who are respectful of the property and grateful for the chance to stay in a home instead of a hotel room. Their houses fill an important need. They have told me of the Supreme Court Judge from New Hampshire who visits his 28 year-old daughter with cancer four times per year; of the many weddings, funerals, and births; of the visiting professors from Oxford, Cambridge, University of Edinburgh, Harvard and Brown for the Michener Center, etc.; of the staff of many film productions including True Grit, Spy Kids, Machete, and the list goes on of reputable people who have enjoyed the opportunity to rent a home for a short stay.

Rachel's Austin heritage goes back over a 100 years. It is great that she and Nick provide a service for Allandale and Hancock, as there are currently no hotels nearby. Many of their guests have family in Austin and isn't it a great way for the City to collect revenue and welcome visitors?

Dee Garcia

ex officio St. Stephen's School Board of Trustees  
Helping Hands Home Society Member  
Women's Symphony League  
National Charity League  
Director of the Mano en Mano Foundation



# Corporate Recruiting Unlimited

PERSONNEL CONSULTANTS

10500 WEST OFFICE DRIVE, SUITE 100 • HOUSTON, TEXAS 77042 • 713/978-7478

September 4,  
2011

B. Mae Stevenson  
5624 Parade Ridge  
Austin, Texas 78731

Mayor Lee Leffingwell  
City of Austin  
P.O. Box 1088  
Austin, Texas 78757

re: property at 1009 C. #3<sup>rd</sup> St.

Dear Mayor Leffingwell, Matt Curtis, City Council,  
Code Enforcement, et al.

I grew up in Austin, graduating from the old Austin High School '53, which is how I am familiar with the referenced property and the structures on it. Mrs. C. C. Olle, the previous owner of the property and I were class mates from the 7<sup>th</sup> grade at Unversity High School on.

I have been inside the house and the upstairs apartment, as well as the separate building which was used as a laundry room. There was no room in the kitchen for the old fashioned washing machines and tubs, etc.

Some time in the '80s, I believe, C. C.'s parents had the attic space converted to a

living space for help as they were aging. The senior Mr. Odle had Alzheimer's disease. After the parents' death, I believe their grandson lived there while he attended U.I. Jeff, the grandson, is currently in Panama, but could verify what I have stated. There are others, as well.

The changes to the property done by the new owners have been in the nature of rehabilitation which included cosmetic and landscaping. The neighbors state that they love the improvements and enjoy the accomplished and interesting, mostly professional people who come there as a result of the short term rental situation.

One of your greatest interests presently is whether or not buildings or the upstairs apt. were added since the new owners purchased the property. I will be glad to sign an affidavit stating what I said earlier in this letter. I know others who spent time there at 1009 as kids who would do the same.

I hope that you are aware that this latest "Kou ha ha" has been caused by a poison pen (even though typed) letter from one Caroline Reynolds, and that Mrs. Reynolds is part of the small Allerdale group who

are making trouble for the owners when they  
can. Mrs. Reynolds went to a lot of trouble  
taping letters or doors not in her neighborhood  
in the interest of protecting her elderly parents  
when they visit. Mrs. Reynolds letter now reads  
with untidiness, absurd suggestions and  
demands that you folks report to her your  
findings. I deplore these Nazi-like tactics.

You will find, I believe, that the new  
owners are willing to work with the city  
in good faith to correct anything that may  
need correcting, given some time.

Sincerely,

B. Stevenson

Phone # 346-3949

- APPLICATION WILL BE RETURNED TO YOU AND WILL NOT BE ADDED TO NEXT BOARD OF ADJUSTMENT AGENDA AND CHECK WILL NOT BE DEPOSITED UNTIL ALL OF THE FOLLOWING IS SUBMITTED CORRECTLY.
- VARIANCES EXPIRE ONE YEAR AFTER APPROVAL DATE PER SECTION 25-1-217 UNLESS BOARD DEEMS OTHERWISE.

forces electric easements  
ty Code, Electric Criteria  
of Adjustment considers  
granted by the Board of  
Austin Energy. If your

**BOARD OF  
ADJUSTMENT/SIGN  
REVIEW BOARD**

request is for a reduction in setbacks or height limits, then you must receive approval from Austin Energy by contacting Robert Long at 322-6522 before filing your application with the Board of Adjustment.

**COMPLETENESS CHECKLIST**

- ☒ Application must be typed
- ☒ Application must be signed and dated by owner and agent
- ☒ Application must have ALL findings (parking portion only required when parking variance is needed) that are applicable fully filled out at time of submittal
- ☒ Site plan must be submitted drawn to scale showing present and proposed construction along with existing structures on all adjacent lots
- ☒ Approval from Austin Energy if request is for a variance to *height* or *setback* limitations

TAKE SURVEY TO 1ST FLOOR OF 505 BARTON SPRINGS, SIGN IN TO SEE AUSTIN ENERGY. HAVE ESPA FORM FILLED OUT W. ADDRESS AND SIGNATURE. ONCE APPROVED THEY WILL STAMP IT. INCLUDE IN BOA PACKAGE AND MENTION DURING HEARING THAT AE IS OK WITH LOCATION.

- ☒ Sign Review Board cases must submit site plans showing location, elevations in addition to above requirements
- ☒ Tax plats (original size 1"=100") must be submitted showing subject property and property within a 500 foot radius. (Available from the Travis Central Appraisal District, 8314 Cross park Drive, 834-9138). **If property is located in Williamson County, then contact Williamson County Appraisal District for a list of the property owners names and addresses within a 500 foot radius.**
- ☒ Check for application fee:   \$360.00   Residential zoning  
   \$660.00   All other
- ☒ Please consider contacting your Neighborhood Assn. about your request.

Please be advised that the Board only takes 16 new cases a month, therefore, first come, first served. Please be advised that a request for reconsideration must be filed within 7 days from the Board meeting.

A variance from the Building Code Board of Appeals may be required for variances from the Zoning Board of Adjustment (no Sign Review Board cases need to call). Please consult a code specialist in the Plan Review Division at 974-2580.

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> Floor (One Texas Center).

CASE # \_\_\_\_\_

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CASE # C15-204-0125  
ROW # 1066158

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE

TP-021809-01-13

**WARNING: Filing of this appeal stops all affected construction activity.**

**PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.**

STREET ADDRESS: 1009 E. 43<sup>rd</sup>

LEGAL DESCRIPTION: Subdivision -- \_\_\_\_\_

Lot(s) \_\_\_\_\_ Block \_\_\_\_\_ Outlot \_\_\_\_\_ Division \_\_\_\_\_

I/We David Cancian on behalf of myself/ourselves as authorized agent for

Rachel Nation affirm that on 9/22, 2011,

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

\_\_\_ ERECT \_\_\_ ATTACH \_\_\_ COMPLETE \_\_\_ REMODEL X MAINTAIN

Garage Apt, Deck, water Heater, front & Rear Deck,  
(EC + Parking)

in a SF3 district. near 10 → 5.35' - "Special" exception  
Side Street - 15' → 4' wooden stairs  
water heater side 5' → 2 1/2' variance

**NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.**

EC & parking